

13062

BY THE COMPTROLLER GENERAL

# Report To The Congress

OF THE UNITED STATES

111739

## Experiences Of Past Territories Can Assist Puerto Rico Status Deliberations

Should Puerto Rico retain its status of Commonwealth or petition the Congress for statehood, independence, or an amended form of the present status? This decision rests with island residents and the Congress. To assist them, GAO reviewed the experiences of past territories to provide insight into issues likely to be addressed during status deliberations.

This report analyzes the procedures and terms established by the Congress in admitting States and granting independence. Historically, the Congress has been guided by tradition, but it has also been adaptable when considering and legislating changes to the status of territories. The Congress' broad authority and the diversity of each applicant have produced some patterns and many variations in admitting the 37 States beyond the original 13 and granting independence to the Philippines.



008881

GGD-80-26  
MARCH 7, 1980

1000

1000

1000

•



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON D C 20541

B-196753

To the President of the Senate and the  
Speaker of the House of Representatives

The debate on alternatives to Puerto Rico's political relationship with the Federal Government continues. To assist Puerto Rico and the Congress in status deliberations, Senator Johnston and Resident Commissioner Corrada have requested information on what a status change would involve. This report describes how past U.S territories obtained statehood or independence.

We are sending copies of this report to interested parties in the Executive Branch and to the Governor of Puerto Rico.

  
Comptroller General  
of the United States

*Comptroller 37*



D I G E S T

Puerto Rico's status debate is drawing special attention as its long quest for increased political rights intensifies. A 1981 plebiscite has been proposed to determine the preferences of these U.S. citizens. The island's 3.3 million residents are sharply divided on whether they should retain the present Commonwealth arrangement, or petition the Congress for statehood, independence, or an amended form of the current status.

Resolution of the island's political future rests with its residents and the Congress. This decision holds significant consequences for Puerto Ricans and the remainder of the United States. Although not necessarily establishing promissory or restrictive precedents, procedures and terms of past territorial transitions can provide insight into many issues likely to be addressed by Puerto Rico and the Congress.

TRADITION AND ADAPTABILITY IN  
PAST TERRITORIAL TRANSITIONS

Throughout American history the Congress has been guided by tradition and has exhibited adaptability when considering and legislating changes to the status of U.S. territories. Since the 13 original States were formed, 37 additional States have been admitted to the Union, while one territory has opted for independence. Although all the current territories have attained greater self-governing measures, their future status remains open.

The United States Constitution grants the Congress authority over territories and the power to admit new States or grant

independence. It also guarantees each State a republican form of government and provides certain limitations on forming new States from existing States.

Other than these provisions, the Constitution permits the Congress great flexibility in admitting new States. The Congress has used this broad authority in evaluating statehood applications and has been guided by the following three admission principles:

"(1) That the inhabitants of the proposed new State are imbued with and sympathetic toward the principles of democracy as exemplified in the American form of government;

(2) That a majority of the electorate desire statehood; and

(3) That the proposed new State has sufficient population and resources to support a State government, and to provide its share of the cost of the Federal Government."

The Congress has been guided by tradition, but has also been adaptable and used discretion in applying these principles and in establishing admission conditions and provisions. In assessing political and financial information during statehood deliberations, the Congress has usually required or prohibited certain practices and provided land grants and other assistance to foster economic development and support public services.

While statehood deliberations have resulted in some trends, the Congress' broad authority, combined with each State's unique characteristics, has led to many variations in admission procedures, prerequisite conditions, assistance provided, and time elapsed before attaining statehood. (See ch. 2.)

The most recent States admitted were Alaska and Hawaii in 1959. Issues usually examined, such as population size and composition, geography, political and economic development, and financial capabilities

were deliberated during their prolonged efforts to attain political equality through statehood.

The Congress also considered Alaska and Hawaii's circumstances in tailoring statehood legislation. Because decades of Federal control restricted Alaska's development, a large land grant, cash assistance, and other special transitional provisions were provided. A financially strong Hawaii required no transitional aid but received a cash grant instead of the traditional land provision. (See chs. 3 and 4.)

Similarly, the Congress, accepting the only decision by a U.S. territory to become independent, enacted special legislation to assist the Philippines' transition. The Filipino independence movement began during Spanish control and continued after the United States acquired the islands in 1898.

Gradually, greater measures of self-government were introduced. A 10-year Commonwealth government was formed to prepare the Philippines for its July 4, 1946, independence. Trade preferences and other transitional measures were established and extended after independence because of the unforeseen consequences of World War II. (See ch. 5.)

DESIRE FOR POLITICAL EQUALITY  
AND GREATER SELF-GOVERNMENT  
FUELS PUERTO RICO'S STATUS  
DEBATE

Puerto Rico has gradually attained self-governing measures similar to States. Strong ties, such as common citizenship, currency, market, and defense, have also developed between Puerto Rico and the States. Island residents, however, cannot vote in presidential elections, do not have voting representation in the Congress and do not pay Federal taxes or participate fully in all Federal programs. (See ch. 6.)

While such differences spur statehood sentiment, other residents believe that greater political rights and self-governing powers should be achieved through an amended form of Commonwealth status or independence. This status debate and the expected plebiscite indicate the growing interest in seeking alternatives to the current status. This report should assist the Congress and the Puerto Rican people when deliberating proposed status changes.

#### COMMENTS ON REPORT

This report was provided to the Federal Departments of State and the Interior, the Assistant to the President for Domestic Policy, and the Governor of the Commonwealth of Puerto Rico for their review and comment. Generally, they said the report comprises a useful compendium of U.S. territorial history which will assist Puerto Rico status deliberations. Letters from the Department of the Interior and the Commonwealth of Puerto Rico are included as appendices V and VI.

CHAPTER		<u>Page</u>
	Financial requirements compli- cated statehood transition	29
	Land grant--the remaining transitional problem	30
	Political equality achieved through statehood	31
	Economy expanded in the poststate- hood decade	32
	Conclusions	34
4	<b>HAWAII: PACIFIC KINGDOM TO 50TH STATE</b>	36
	Missionary influence, trade, and strategic value led to annexation in 1898	36
	Organic Act set up territorial government	37
	The statehood drive--decades of perseverance	38
	Desire to eliminate second class citizenship motivated statehood proponents	38
	Statehood eligibility affirmed	39
	Congressional opposition delayed admission	40
	Admission Act ratified and smooth statehood transition ensued	41
	Omnibus Act brought equal treatment under all Federal legislation	42
	Statehood brought political equality as economic growth continued	42
	Conclusions	45
5	<b>THE PHILIPPINE ISLANDS OPT FOR INDEPENDENCE</b>	46
	Oppressive Spanish rule led to U.S. sovereignty and an uncertain future	46
	Immediate independence denied and civil government established	47
	The Congress declared support for independence	48
	Commonwealth government: political transition to independence	48
	Need for economic transition studied	50
	Economic ties reduced to prepare for independence	51

C o n t e n t s

		<u>Page</u>
DIGEST		i
CHAPTER		
1	INTRODUCTION	1
	Territories: past and present	1
	Puerto Rico's dilemma: common-wealth, statehood, or independence	2
2	TRENDS AND VARIATIONS IN STATEHOOD ADMISSIONS	3
	Fifty States forged from various land acquisitions	3
	Statehood admission procedures differed	7
	Traditional and other conditions required for admission	11
	Land and other grants accorded to States	14
	Significant factors which affected attainment of statehood	18
	Conclusions	20
3	AFTER YEARS OF LIMITED SELF-GOVERNMENT ALASKA BECAME THE 49TH STATE	22
	Territorial history: extensive restrictions on home rule	22
	Obtaining statehood: a long and difficult process	23
	Residents believed statehood needed for greater self-government and economic expansion	24
	Nonresident interests led statehood opposition	24
	Congressional reports cited Alaska's readiness and statehood's potential benefits	25
	Antistatehood arguments involved longstanding issues	26
	Residents approved Statehood Act	27
	Statehood brought large land grant and other provisions	27
	Transitional assistance provided later	28

<b>APPENDIX</b>		<u>Page</u>
III	Major statehood provisions granted in enabling and admission acts	73
IV	Synopsis of the history of Puerto Rico's status in United States courts	75
V	Letter dated December 19, 1979, from Assistant Secretary of Policy, Budget and Administration, United States Department of the Interior	89
VI	Letter dated January 16, 1980, from the Secretary of State of the Common- wealth of Puerto Rico	90

ABBREVIATIONS

GAO	General Accounting Office
GSP	Gross State Product

CHAPTER		<u>Page</u>
	Independence brought autonomy and challenges in coping with disastrous effects of World War II	52
	Postindependence economic problems prompted extensions of trade preferences	53
	Conclusions	53
6	TERRITORIAL DEVELOPMENTS CONTINUE	55
	Puerto Rico's pursuit of political rights began under Spanish rule	55
	Spanish-American War brought U.S. sovereignty	56
	U.S. Supreme Court decided Puerto Rico was not an incorporated territory	58
	1917 Organic Act included U.S. citizenship and locally elected legislature	58
	An elected governor--another step toward greater self-government in 1947	59
	Greater home rule--Constitution established and Commonwealth formed	59
	Varying concepts of Commonwealth	60
	Post-Commonwealth era: attempted revisions and ongoing debates	61
	Other territories also move toward greater self-government	64
	Growing financial ties: territories and the remainder of the United States	65
	Conclusions	68
7	SCOPE OF REVIEW	69
	Comments on Report	69
 APPENDIX		
I	Location of current territories	70
II	Major conditions contained in statehood enabling and admission acts	71

## CHAPTER 1

### INTRODUCTION

Continuing a long quest for increased local self-government and political equality, Puerto Rico is deliberating its future status. These 3.3 million U.S. citizens are sharply divided on whether they should retain the Commonwealth arrangement, or petition the Congress for statehood, independence, or an amended form of the current status. Resolution of this debate holds significant consequences for Puerto Ricans and the remainder of the United States. It may also affect U.S. relationships with other territories as they continue their development toward greater self-government.

Former territories have completed this evolutionary process by obtaining statehood or independence. The United States Constitution grants the Congress authority over the territories and the power to admit new States. The Congress has adhered to territories' wishes, as they coincided with U.S. interests, and has been flexible in legislating statehood or independence transitions. Although not necessarily holding promissory or restrictive implications, past territorial transitions provide insight into issues likely to be examined during status deliberations.

### TERRITORIES: PAST AND PRESENT

Following the American Revolutionary War, the Congress conceived a framework to guide the first territory <sup>1/</sup> from an embryonic institution through self-governing stages until its final status was achieved. This process has grown in complexity and been flexibly applied in accommodating each territory's unique characteristics.

Most former territories became States. The historic increase in government responsibilities, the Congress' broad authority, and the diversity of each territory combined to produce patterns and variations in statehood admissions. The most recent States admitted in 1959, Alaska

---

<sup>1/</sup>For this report, a territory is defined as a part of the United States which is not a State. Also included in this report is the Trust Territory of the Pacific Islands, which is administered by the United States under a trustee agreement with the United Nations. Not included in this report are certain smaller territories over which the United States currently exercises sovereignty or the District of Columbia.

and Hawaii, exemplify these trends. Similarly, by attaining independence in 1946, the Philippines illustrate the only decision by a territory to opt for such status.

The current territories' ultimate status has not been resolved. These areas include Puerto Rico and Guam, ceded to the United States by Spain following the 1898 Spanish-American War; American Samoa, ceded to the United States through acts of cession by the Samoan chiefs in 1900 and 1904; the Virgin Islands, purchased from Denmark in 1917; and the Northern Marianas, part of the Trust Territory of the Pacific Islands entrusted to the United States by the United Nations in 1947. The locations of these territories are described in appendix I.

Strong ties have developed between these territories and the remainder of the United States. Gradually, increased measures of self-government have also been extended. Since greater self-determination is the U.S. policy, this developmental process will continue, highlighted by Puerto Rico's status debate.

FUERTO RICO'S DILEMMA: COMMONWEALTH,  
STATEHOOD, OF INDEPENDENCE

Although Puerto Rico has self-governing rights and responsibilities similar to States, residents have no voting representation in the Congress and do not participate in national elections. These are some of the many factors which spur debates over the island's political destiny. Attempts have been made to broaden and finalize the Commonwealth's authority. In 1976 President Ford advocated statehood for the island. Legislative measures proposing statehood, independence, or an amended form of Commonwealth have been introduced over the years.

The concepts of commonwealth, statehood, or independence have been debated for decades and are represented by the island's major political parties. To help resolve the issue, Puerto Rico's Governor, a statehood proponent, has pledged, if reelected in 1980, to hold a status plebiscite in 1981.

## CHAPTER 2

### TRENDS AND VARIATIONS IN STATEHOOD ADMISSIONS

The concepts of U.S. territorial development were formulated when the first territory was organized shortly after the Revolutionary War. Subsequently, the United States expanded through a series of land acquisitions to forge a Nation of 50 States. Most of this land was organized into territorial units. Inhabitants were granted limited self-governing powers, with statehood to be achieved when the Congress and the territories' residents concurred.

Historically, the Congress has focused on statehood applicants' ability to meet certain criteria and has been flexible in establishing admission conditions. The Congress has also been adaptable in providing land and other grants to foster economic development and support public services. While deliberations have resulted in some trends, the Congress' broad authority, combined with each State's unique characteristics, has led to many variations in admission procedures, prerequisite conditions, assistance provided, and time elapsed before attaining statehood.

#### FIFTY STATES FORGED FROM VARIOUS LAND ACQUISITIONS

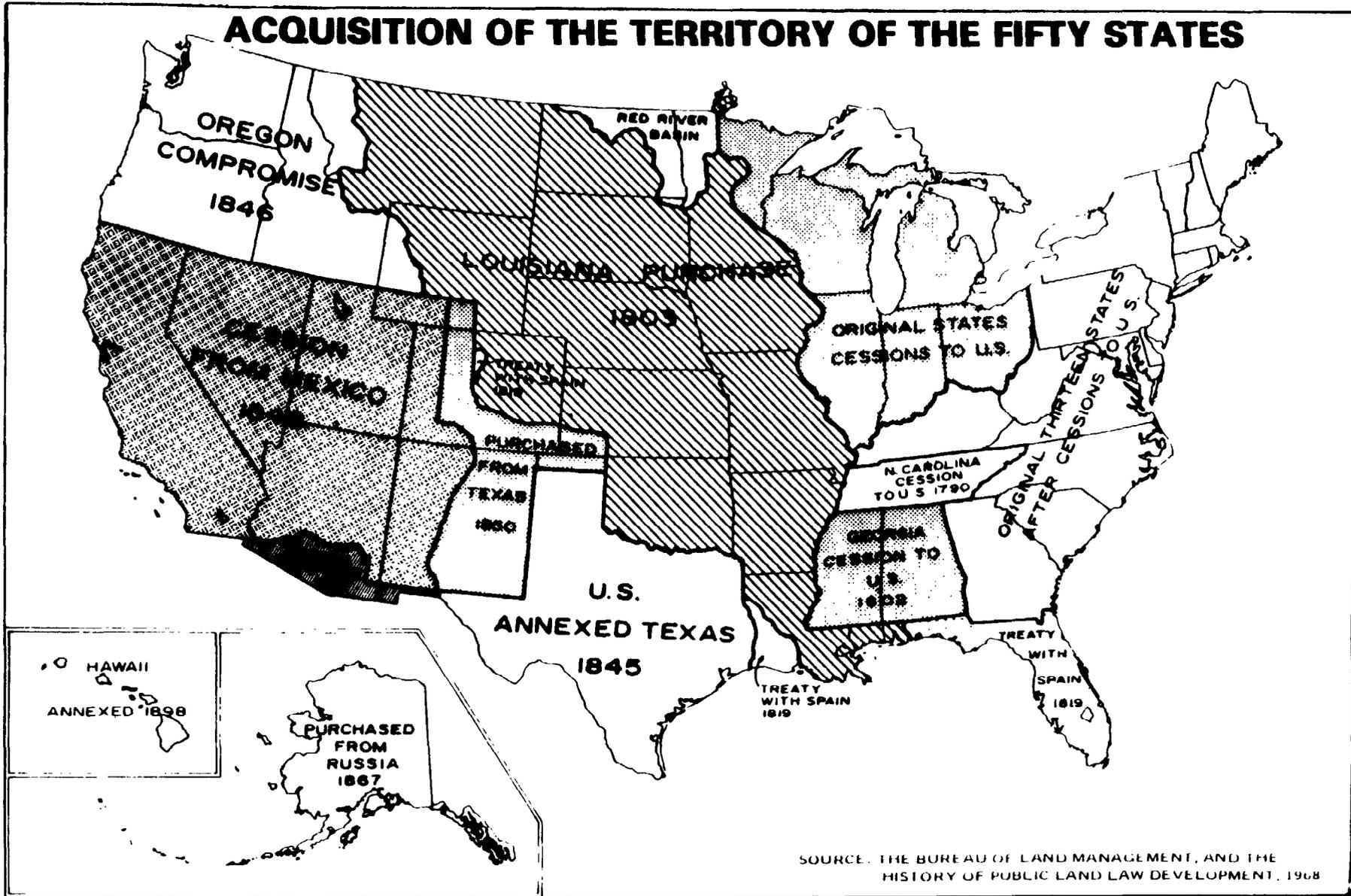
Ownership of the continental United States began changing drastically with the advent of the Revolutionary War. Before the war, much of North America was claimed by Great Britain, France, and Spain. Following its conclusion in 1783, the 13 independent States were established, and the Western land claims of several States were ceded to the Federal Government.

The framework established for admitting States from these land cessions set the precedent for future territories as the United States continued its westward expansion. The map on the following page illustrates the various land purchases, war settlements, and annexations which eventually formed the 50 States. The organization and admission of some territories, however, were slowed by boundary disputes among the States and with other nations.

#### Colonial land claims formed the first U.S. territories

While the Revolutionary War continued, the Continental Congress deliberated how to preserve the newly formed

# ACQUISITION OF THE TERRITORY OF THE FIFTY STATES



SOURCE: THE BUREAU OF LAND MANAGEMENT, AND THE HISTORY OF PUBLIC LAND LAW DEVELOPMENT, 1968

Confederation's stability. Those original States with Western landholdings extending to the Mississippi River were encouraged to relinquish portions of their claims. The land was needed to generate government revenue, pay military personnel, and promote the Confederation's solidarity and prosperity. To accomplish this latter objective, a 1780 resolution proposed that this territory eventually become separate States.

The subsequent land cessions of Virginia and other States formed the first U.S. territory. Since land was a plentiful but valuable resource, the Congress adopted a 1785 Land Ordinance to organize its distribution. Public lands were surveyed into townships consisting of 36 one-square-mile sections. From each township, four sections were reserved for the Federal Government and one section (640 acres) for public schools. The land was sold initially in tracts containing at least 640 acres, and the proceeds were used to retire the Federal debt.

The 1787 Northwest Ordinance, which formally organized this first territory, established a self-governing framework for developing future territories and for admitting new States. The Congress reaffirmed this Ordinance in 1789 shortly following ratification of the U.S. Constitution. Many provisions contained in subsequent treaties, territorial acts, and statehood admissions were derived from this Ordinance.

To govern the territory, the Northwest Ordinance provided for a congressionally appointed Governor and a court, which also assisted in promulgating laws. When its population reached 5,000 free adult males, the territory elected a representative legislature which could appoint a nonvoting delegate to the Congress. Territorial residents were subject to the same Federal laws and taxation as the States. The Congress could form from three to five States in the Northwest territory, which later included Ohio, Indiana, Illinois, Michigan, and Wisconsin.

Other States also relinquished their Western land claims. In 1790, North Carolina ceded its claim from which Tennessee was admitted. Land ceded by South Carolina in 1787 and Georgia in 1802 was later divided into two territories, which ultimately became Alabama and Mississippi.

#### Several treaties continued the westward expansion

The first expansion beyond the State cessions was the 1803 Louisiana Purchase from France. This 500 million acre area, extending from the Gulf of Mexico to the Canadian

border, doubled U.S. landholdings. The 1803 Treaty of Paris concluding its acquisition stipulated that this land was to be admitted into the Union as soon as possible. All or part of several States were subsequently carved from this territory, as shown on page 4.

Additional landholdings were acquired by settling prolonged land conflicts. In 1818, a convention with Great Britain defined part of the northern boundary of the United States, which added the Red River Basin area to U.S. jurisdiction. The 1819 Treaty of Amity settled disputed claims between the United States and Spain and brought Florida under the U.S. flag. Longstanding disputes between the United States and Great Britain over land west of the Rocky Mountains were resolved in an 1846 treaty. Subsequently, this territory was organized in 1848, and later became the States of Oregon, Idaho, Washington, and parts of Wyoming and Montana.

Major land acquisitions came in 1848 when the Mexican-American War concluded, and the 1853 Gadsden Treaty resolved conflicting Southwest claims. California, Nevada, Utah, Arizona, and portions of Colorado, New Mexico, and Wyoming originated from these additions.

Alaska, the most recent State acquired by treaty, was purchased from Russia in 1867. Since the Louisiana Purchase, all territorial treaties of cession had included the explicit promise of admission into the Union, but such a promise was not specifically stated in Alaska's treaty. However, the Supreme Court ruled in 1905 that Alaska was an incorporated territory, which was interpreted by many as an implied promise of ultimate statehood. Eventually, Alaska was admitted in 1959.

#### Annexations completed territorial acquisitions

Both Texas and Hawaii were independent Republics before being annexed to the United States. The March 1, 1845, annexation agreement permitted Texas to divide into five States. A bid was made, however, for admission as one State and approved on December 29, 1845. Although Texas retained ownership of all vacant public lands within its borders, it sold almost 79 million acres to the U.S. Government in 1850 to repay its debts incurred as an independent Republic.

Although the Hawaiian Islands were annexed by a 1898 congressional resolution, the legislation gave no indication of the island's future status. The U.S. Supreme Court later

affirmed that Hawaii's 1900 Organic Act made the island an incorporated territory. It finally became the 50th State in 1959.

STATEHOOD ADMISSION PROCEDURES  
DIFFERED

As the country expanded from the Atlantic to the Pacific and beyond, the variety of newly developed lands and their settlers prompted diverse experiences for the 37 additional States admitted to the Union. The Congress' broad constitutional authority has permitted considerable latitude in the treatment accorded each new State.

Major admission patterns, however, have evolved. As the table on the following page illustrates, 31 States entered the Union from territorial status. Twenty territories obtained prior congressional authorization through an enabling act. Eleven of these 31 territories made statehood preparations without formal congressional authorization. Six States admitted after the original 13 were never territories. Of these, four were carved from existing States. Texas was admitted shortly after annexation; and California was an unorganized area under military rule.

Key Dates in the Admission  
of the 37 States Admitted After  
the Original 13 States

States in order of admission	Key dates for			
	<u>Territorial act</u>	<u>Enabling act</u>	<u>Admission act</u>	<u>Effective admission</u>
Vermont	None	None	Feb 18, 1791	Mar 4, 1791
Kentucky	None	None	Feb 4, 1791	June 1, 1792
Tennessee	May 26, 1790	None	June 1, 1796	June 1, 1796
Ohio	Aug 7, 1787	Apr 30, 1802	Aug 7, 1803	Mar 1, 1803
Louisiana	Mar 26, 1804	Feb 20, 1811	Apr 8, 1812	Apr 30, 1812
Indiana	May 7, 1800	Apr 19, 1816	Dec 11, 1816	Dec 11, 1816
Mississippi	Apr 7, 1798	Mar 1, 1817	Dec 10, 1817	Dec 10, 1817
Illinois	Feb 3, 1809	Apr 18, 1818	Dec 3, 1818	Dec 3, 1818
Alabama	Mar 3, 1817	Mar 2, 1819	Dec 14, 1819	Dec 14, 1819
Maine	None	None	Mar 3, 1820	Mar 15, 1820
Missouri	June 4, 1812	Mar 6, 1820	Mar 2, 1821	Aug 10, 1821
Arkansas	Mar 2, 1819	None	June 15, 1836	June 15, 1836
Michigan	Jan 11, 1805	None	June 15, 1836	Jan 26, 1837
Florida	Mar 30, 1822	None	Mar 3, 1845	Mar 3, 1845
Texas	None	None	Dec 29, 1845	Dec 29, 1845
Iowa	June 12, 1838	None	Mar 3, 1845	Dec 28, 1846
Wisconsin	Apr 20, 1836	Aug 6, 1846	Mar 3, 1847	May 29, 1848
California	None	None	Sept 9, 1850	Sept 9, 1850
Minnesota	Mar 3, 1849	Feb 26, 1857	May 11, 1858	May 11, 1858
Oregon	Aug 14, 1848	None	Feb 14, 1859	Feb 14, 1859
Kansas	May 30, 1854	None	Jan 29, 1861	Jan 29, 1861
W. Virginia	None	None	Dec 31, 1862	June 19, 1863
Nevada	Mar 2, 1861	Mar 21, 1864	(a)	Oct 31, 1864
Nebraska	May 30, 1854	Apr 19, 1864	Feb 9, 1867	Mar 1, 1867
Colorado	Feb 28, 1861	Mar 3, 1875	(a)	Aug 1, 1876
N. Dakota	Mar 2, 1861	Feb 22, 1889	(a)	Nov 2, 1889
S. Dakota	Mar 2, 1861	Feb 22, 1889	(a)	Nov 2, 1889
Montana	May 26, 1864	Feb 22, 1889	(a)	Nov 8, 1889
Washington	Mar 2, 1853	Feb 22, 1889	(a)	Nov 11, 1889
Idaho	Mar 3, 1863	None	July 3, 1890	July 3, 1890
Wyoming	July 25, 1868	None	July 10, 1890	July 10, 1890
Utah	Sept 9, 1850	July 16, 1894	(a)	Jan 4, 1896
Oklahoma	May 2, 1890	June 16, 1906	(a)	Nov 16, 1907
New Mexico	Sept 9, 1850	June 20, 1910	Aug 21, 1911	Jan 6, 1912
Arizona	Feb 24, 1863	June 20, 1910	Aug 21, 1911	Feb 14, 1912
Alaska	Aug 24, 1912	None	July 7, 1958	Jan 3, 1959
Hawaii	Apr 30, 1900	None	Mar 18, 1959	Aug 21, 1959

a/Admitted through a Presidential proclamation as authorized by the enabling acts.

According to the Northwest Ordinance, a territory could apply for statehood when its population reached 60,000 free inhabitants, or fewer at the discretion of the Congress. Ohio, the first State admitted from the Northwest Territory, received special congressional authorization in an enabling act, because it did not have the required population. This pattern of requesting prior admission approval was adopted by 19 additional States.

This procedure generally entailed the following key events. First, territories were organized by territorial or organic acts which established regulations for their governance. When statehood was desired, the territory would request congressional approval. A typical enabling act authorized the drafting of a State constitution and the forming of a State government. Usually details were specified for electing constitutional convention delegates; the time, place, and procedures for the convention; and provisions for ratifying the constitution and transmitting the results to the national government. Other features included directives for organizing a judicial system, fixing State boundaries, protecting civil rights, and paying territorial debts. Finally, the enabling act offered for the territory's acceptance or rejection some requirements and land and monetary grants, with admission contingent upon congressional approval.

After the constitution was ratified by the territorial residents and reviewed by the Congress, approval was usually granted through an admission act. Early States' admission acts were generally brief. Gradually, provisions were added specifying the number of Federal Representatives allotted until the next apportionment and establishing a Federal judicial district. Almost every admission act included a requirement that the new State be admitted on an equal footing with the original 13. For most States without enabling acts, statehood provisions and conditions were detailed in the admission act.

Tennessee, the first territory to become a State, initiated a different procedure in 1796. After a census certified over 60,000 free residents, the Governor convened a constitutional convention. Without previous examples, he assumed that the territory had a right to statehood upon acquiring the necessary population. In addition, the Governor was reportedly advised that the Congress would not grant statehood until the territory had taken the initiative, as did the previously admitted States of Vermont and Kentucky (see p. 10).

Accordingly, without prior congressional approval, Tennessee drafted a constitution and elected senators and representatives. Although some congressional reluctance to accept the census existed, the State was soon admitted. However, State representatives to the Congress had to be reelected.

Michigan, Iowa, Oregon, Kansas, and Alaska followed Tennessee's example. Arkansas, Florida, Idaho, Wyoming and Hawaii drafted their State constitutions without congressional authorization but deviated from Tennessee's example by not electing congressional representatives until after admission.

Vermont, Kentucky, Maine, and West Virginia were never territories but were established from existing States. They formed State constitutions and requested permission from their "mother" State to seek statehood. When this action was accepted by the Congress, an admission act was approved.

Vermont initiated this method in the late 1770s when inhabitants in the New York and New Hampshire area formed "the independent State of Vermont." Opposition from New York over a boundary dispute delayed Vermont's admission until 1791. Similarly, Kentucky was originally part of Virginia. From 1785-1789 the Virginia legislature submitted four draft proposals permitting a separate State to be formed, but Kentucky did not join the Union until 1792. Maine was ceded from Massachusetts and admitted in 1820, while West Virginia was formed from Virginia in 1862 and was admitted 1 year later.

California and Texas were never formally organized territories, nor part of any State. Once under Spanish and then Mexican sovereignty, Texas proclaimed itself an independent Republic on March 2, 1836; on March 1, 1845, it was annexed to the United States. Within 10 months, a constitution was drafted and ratified, and State elections were held. Admission was approved on December 29, 1845.

After the 1848 treaty ending the Mexican-American War, California was administered by a military government. The 1849 gold rush spurred rapid population growth, prompting an immediate demand for statehood. Following a convention, a proposed State constitution was ratified, and State officials were elected. On December 20, 1849, the military government relinquished control to the newly elected governor. In March 1850, the California congressional representatives went to Washington, D.C., to seek admission; however, approval was delayed until September 1850 because of the slavery issue (see p. 20).

TRADITIONAL AND OTHER CONDITIONS  
REQUIRED FOR ADMISSION

Before admitting new States, the Congress has usually required that certain conditions be met. The only specific legal statehood requirements are those contained in Article IV, Section 3, of the U.S. Constitution:

"New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress."

This broad authority permits great flexibility, but the Congress has generally followed certain admission principles. Additionally, discretionary conditions have been imposed in enabling or admission acts, which generally prohibit or require certain practices.

Three principles have been considered by the Congress in evaluating statehood admissions. The Senate Committee Report accompanying the most recent admission act sets forth these standards:

"The Constitution of the United States provides that new States may be admitted into the Union by the Congress, but it sets forth no specific requirements. However, a study of American history, with particular attention to the facts and circumstances surrounding the admission of each of the 37 States that have come into the Union since its founding, shows that the requirements have been--

(1) That the inhabitants of the proposed new State are imbued with and sympathetic toward the principles of democracy as exemplified in the American form of government;

(2) That a majority of the electorate desire statehood; and

(3) That the proposed new State has sufficient population and resources to support State government and to provide its share of the cost of the Federal Government."

The Northwest Ordinance stated that the territory could draft a State constitution, republican in form, upon attaining the required population. Also, the U.S. Constitution

guarantees each State a republican form of government. Typically, enabling acts have included this provision and sometimes also required that the State constitution not conflict with the U.S. Constitution, the Declaration of Independence, and/or the Northwest Ordinance.

To adequately demonstrate majority support for statehood, the Congress has, since the late 1850s, usually required ratification of the proposed State constitution. In some instances, such as Alaska and Hawaii, residents were also asked to approve provisions of the States' admission acts.

Population was a key element in statehood admissions. Although the 60,000 population requirement was waived for 6 States (see p. 19), this requirement has usually been followed. For example, Colorado's admission was vetoed in 1866. This veto occurred, in part, because the population was thought too small to bear a State's financial responsibilities and because statehood support had not been satisfactorily demonstrated.

Later, in 1872, the Congress adopted a resolution that no territory be admitted without sufficient population to qualify for one congressional representative. As the costs and responsibilities of State and Federal governments have increased, so has the complexity of this third principle. This is illustrated by the exhaustive congressional analyses given Alaska and Hawaii. (See the next two chapters.)

Other specific conditions were included in most enabling and/or admission acts. Although patterns have emerged, conditions have varied based upon the time period, the location, and background of each new State. Trends in some provisions common to new States are detailed in appendix II.

These provisions generally fall under two major categories: Federal taxation and public land titles, and State responsibilities to protect civil liberties and provide public services. Major conditions in this first category include:

1. No State taxes shall be levied on U.S. property.
2. Nonresident property owners shall not be taxed higher than State residents.
3. All navigable rivers and waters shall be free of all taxes, duties, and tolls.

4. Land sold by the U.S. Government shall remain exempt from State taxes for 5 years.
5. Land granted to military personnel shall remain tax-exempt for 3 years.
6. No interference with the U.S. Government's disposal or purchase of land shall occur.
7. The State shall forever disclaim the right to unappropriated public lands, and these lands shall remain under the U.S. Government's jurisdiction.

The first two conditions relating to taxation have applied to most new States. The provisions concerning 3- to 5-year tax exemptions on public lands helped to promote land sales and bolster Federal Government revenues. These exemptions were eliminated by 1847, however, because of problems with land speculators, and States' complaints that the exemptions impaired community development due to absentee ownership.

The last two provisions--regarding the ownership and sale of public lands--were often important factors when territories began applying for statehood, particularly since proceeds from public land sales were a major source of government revenue. The original States owned the ungranted land within their borders, as did the four other States established from the original 13. Also, the former independent Republics of Texas and Hawaii were granted title to all public lands not in use by the Federal Government. However, in all territories acquired through treaties, the Federal Government owned most of the public lands.

Because the Congress did not specify ownership in the 1796 act admitting Tennessee, the first territory to become a State, the new State claimed all its public lands. Although the Congress initially refused to recognize the State's claim, the dispute was resolved in 1846 when the State was granted ownership of the public lands not disposed of by the Federal Government. After Tennessee's admission, the Congress typically included a provision eliminating States' claims to public lands retained by the Federal Government or any interference with their disposal.

The other major category of statehood conditions dealt with State responsibilities and encompassed such provisions as:

1. The State paying all territorial debts.

2. Establishing a public school system free from sectarian control and open to all residents' children.
3. Protecting citizens' constitutional civil rights or the right to vote regardless of race, color, or religious beliefs.
4. Conducting public schools in English, and requiring all State legislators to read, speak, and write English.

Some of these provisions appear to have evolved from the post-Civil War constitutional amendments concerning civil rights protections. The unique cultural and religious ties of many Western residents precipitated other requirements. For example, Oklahoma, Arizona, and New Mexico were required to use the English language in public schools and/or State legislatures because of large non-English speaking populations; some States had to ban the Mormon practice of polygamous marriages.

#### LAND AND OTHER GRANTS ACCRUED TO STATES

While statehood admissions entailed certain conditions, the deliberations also involved provisions for land grants and other aid to promote new States' economic development and ability to provide public services. Although usually prescribed in enabling or admission acts, several States received additional land and money after statehood. These provisions were sometimes extended to existing territories and future States. Some States that were never territories were later compensated. In addition to these different distribution methods, each State's diverse characteristics contributed to the varying amount and types of assistance provided. The table on the following page illustrates the various purposes of Federal land grants to the States from 1803 until 1976.

Over the years, however, trends have evolved in statehood legislation 1/ and general purpose acts. Until the 1840s, new States generally received five major types of assistance:

---

1/Appendix III illustrates major provisions included in States' enabling and admission acts.

FEDERAL LAND GRANTS TO STATES FROM 1803 TO 1976

State	Common schools	Other schools	Other institutions	Railroads	Wagon roads	Canals and rivers	Miscellaneous improvements (not specified)	Swamp reclamation	Other purposes	Total land grants	Total acreage of State (notes a & b)
	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	
Alabama	911,627	383,765	181	2,747,479		400,616	97,469	441,666	24,660	5,008,883	32,678,400
Alaska	106,000	112,064	1,000,000						103,351,187	104,569,251	365,481,600
Arizona	8,093,156	849,197	500,000						1,101,400	10,543,753	72,688,000
Arkansas	933,778	196,080		2,563,721			500,000	7,686,575	56,680	11,436,834	33,599,360
California	5,534,293	196,080					500,000	2,193,967	400,768	8,225,108	100,206,770
Colorado	3,685,618	138,040	32,000				500,000	115,946	4,471,604	66,485,760	
Connecticut		180,000								180,000	3,135,000
Delaware		90,000								90,000	1,265,920
Florida	975,307	182,160		2,218,705			500,000	20,333,074	5,120	24,214,366	34,721,280
Georgia		270,000								270,000	37,795,360
Hawaii											4,105,600
Idaho	2,963,698	396,666	250,000						654,064	4,254,438	52,933,120
Illinois	996,320	526,080		2,595,133		324,283	209,086	1,460,164	123,589	6,234,655	35,795,200
Indiana	668,578	436,080			170,580	1,480,409		1,259,271	25,600	4,040,510	23,158,400
Iowa	1,000,679	286,080		4,706,945		321,342	500,000	1,196,392	49,824	8,061,262	35,860,480
Kansas	2,907,520	151,270	127	4,176,329			500,000		59,423	7,794,669	52,510,720
Kentucky		330,000	24,607							354,607	25,512,320
Louisiana	807,271	256,792		373,057			500,000	9,504,641		11,441,261	28,867,840
Maine		210,000								210,000	19,847,680
Maryland		210,000								210,000	6,319,760
Massachusetts		360,000								360,000	5,034,880
Michigan	1,021,867	286,080		3,134,058	221,013	1,250,236	500,000	5,680,312	49,280	12,142,846	36,492,160
Minnesota	2,874,951	212,160		8,047,469			500,000	4,706,591	60,810	16,472,051	51,205,760
Mississippi	824,213	346,240		1,075,345			500,000	3,348,946	1,253	6,097,997	20,222,720
Missouri	1,221,813	376,080		1,837,968			500,000	3,432,521	48,640	7,417,022	44,248,320
Montana	5,198,258	368,721	100,000						270,359	5,963,338	91,271,040
Nebraska	2,730,951	136,080	32,000				500,000	59,680	3,458,711	49,031,680	
Nevada	2,061,967	136,080	12,800				500,000		14,379	2,725,226	70,264,320
New Hampshire		150,000								150,000	5,748,960
New Jersey		210,000								210,000	4,813,440
New Mexico	6,711,324	1,346,546	750,000			100,000			1,886,848	12,794,718	77,760,400
New York		990,000								990,000	30,080,960
North Carolina		270,000								270,000	31,400,800
North Dakota	2,495,396	336,080	250,000						82,076	3,163,552	44,452,480
Oio	724,266	699,120			60,774	1,204,114			26,372	2,752,622	26,122,080
Oklahoma	1,375,000	1,050,000	670,760							3,095,760	44,080,880
Oregon	3,399,360	136,165			2,583,890		500,000	286,108	127,324	7,032,847	61,598,720
Pennsylvania		780,000								780,000	28,804,480
Rhode Island		120,000								120,000	677,120
South Carolina		180,000								180,000	19,374,080
South Dakota	2,733,084	366,080	250,640						85,569	3,435,373	48,861,920
Tennessee		300,000								300,000	26,727,680
Texas		180,000								180,000	168,217,600
Utah	5,844,196	556,141	500,160						601,240	7,501,737	52,666,560
Vermont		150,000								150,000	5,936,640
Virginia		300,000								300,000	25,496,320
Washington	2,376,391	336,080	200,000						132,000	3,044,471	42,663,760
West Virginia		150,000								150,000	15,426,560
Wisconsin	922,329	332,160		3,652,322	302,931	1,022,349	500,000	3,361,263	26,436	10,179,604	35,011,200
Wyoming	2,470,009	136,080	420,000							4,347,520	62,343,040
<b>Total</b>	<b>77,629,220</b>	<b>16,707,787</b>	<b>4,993,275</b>	<b>37,128,531</b>	<b>3,358,168</b>	<b>6,102,749</b>	<b>7,806,555</b>	<b>64,917,883</b>	<b>108,780,866</b>	<b>328,426,054</b>	<b>2,271,304,720</b>

a/Does not include inland water.

b/As of June 30, 1975.

Source: Public Land Statistics 1976, Tables 4 and 7, United States Department of Interior, Bureau of Land Management.

1. One section of land in every township for public schools.
2. One or two townships for a university or seminary.
3. Land for the public buildings.
4. Ownership of salt springs and adjacent land.
5. Three or five percent of the net proceeds from public lands sales within the State for constructing public roads or schools.

General purpose acts also were passed so that all States, including the original 13, could share in Federal revenues derived from public land sales. The first was the Deposits Regulation Act of 1836, which divided a Federal surplus for States based upon congressional representation.

Later, a minimum level of land and money to be granted was established. On September 4, 1841, each public land State was granted 500,000 acres for internal improvements, such as roads, bridges, and canals. However, previously accorded grants for these purposes were to be deducted from this allotment. In addition, these States were allotted 10 percent of the net proceeds from public land sales within their States. After all grants and administrative costs were deducted, the remaining proceeds were divided among all States, the District of Columbia, and certain territories. As new States were admitted, they were to receive similar land and monetary provisions.

Other land grants followed. The Swamp Lands Acts of 1849, 1850, and 1860 returned swamp and overflowed lands to several States for reclamation. Also, several States were granted land for constructing railroads and military roads. In 1862, the "Morrill Act" donated land to States and territories to construct agriculture and mechanical arts colleges. It provided 30,000 acres for each congressional member, up to 1 million acres per State; in 1866, it was extended to all States upon admission. Later, another act authorized additional proceeds for support of these colleges. In 1887 the "Hatch Act" appropriated \$15,000 annually for agricultural experiment stations in each State and territory.

In the late 19th century in lieu of the general 1841 and Swamp Land grants, the Congress designated more specific uses for acreage granted to new States. In addition to the traditional land grants for schools and public buildings and a share of the proceeds from public land sales, land grants

were accorded for such purposes as: penal institutions, reform and teacher schools; schools for the deaf, dumb, and blind; insane asylums; and miners' hospitals. In some cases grants were given to territories and then transferred to the new State. Some States also received assistance to defray constitutional convention costs and for other specific purposes. For example, New Mexico and Arizona each received 1 million acres to help repay territorial debts.

The unique characteristics of the Western States admitted after the Civil War prompted other assistance to accommodate their special needs. Because of their semiarid nature, instead of the "Swamp Lands Act," public land sale proceeds were allocated to certain States and territories for irrigation projects. Later, other acts authorized additional proceeds from development efforts, such as mining, on public lands within these States.

The increased complexity of Federal and State governments by the 1950s influenced statehood deliberations. In 1959, a Senate Committee Report assessing Alaska's problems in assuming normal State services noted that:

"There has been almost a revolutionary change in governmental programs and responsibilities since the last new States prior to Alaska, Arizona, and New Mexico, were admitted into the Union 47 years ago. The United States in 1912 was only at the threshold of the era of the internal combustion engine. Automobiles were numbered in the thousands. Commercial aviation was unknown. The present concept of Federal grants-in-aid to States for construction of highways and airports, health services, education and welfare had not yet been developed."

Alaska and Hawaii's admission illustrate how this dramatic increase in government activities affected statehood deliberations and legislation. (See chs. 3 and 4.) This, along with their unique characteristics, explains why the types and amounts of assistance differed from previous assistance. For example, because public lands were not available to donate for the Morrill Act, Hawaii was appropriated a \$6 million grant instead. Alaska was also excluded from the 1841, Swamp Lands, and Morrill Acts, but received a huge land grant. After admission, Omnibus Acts were passed to make additional grants and ensure that both Alaska and Hawaii were treated as States in all Federal programs.

SIGNIFICANT FACTORS WHICH AFFECTED ATTAINMENT  
OF STATEHOOD

Several factors that affected admission procedures, conditions, and provisions also influenced the time elapsed before territories were admitted to the Union. The diversity of the peoples, geographic location, historical setting, economic development, and other considerations have contributed to the wide variation in time passed before attaining statehood as illustrated on the next page. According to a Congressional Research Service analysis,

"In most instances, States were admitted to the Union without any great difficulty, regardless of procedure adopted. In some cases, however, statehood, because of various political, economic, and social reasons, was attained only after a long and protracted struggle."

Statehood--Time Lapsed and  
Population

<u>States in order of admission</u>	<u>Date of admission (note a)</u>	<u>Years lapsed from territory to statehood</u>	<u>Estimated population at time of admission (note a)</u>
Delaware	Dec 7, 1787	N/A	59,096
Pennsylvania	Dec 12, 1787	N/A	434,373
New Jersey	Dec 18, 1787	N/A	184,139
Georgia	Jan 2, 1788	N/A	82,548
Connecticut	Jan 9, 1788	N/A	238,141
Massachusetts	Feb 6, 1788	N/A	378,787
Maryland	Apr 28, 1788	N/A	319,728
South Carolina	May 23, 1788	N/A	249,073
New Hampshire	June 21, 1788	N/A	141,899
Virginia	June 26, 1788	N/A	747,610
New York	July 26, 1788	N/A	340,120
North Carolina	Nov 21, 1789	N/A	393,751
Rhode Island	May 29, 1790	N/A	68,825
Vermont	Mar 4, 1791	(b)	85,539
Kentucky	June 1, 1792	(b)	73,677
Tennessee	June 1, 1796	f	77,262
Ohio	Mar 1, 1803	16	41,915
Louisiana	Apr 30, 1812	8	76,556
Indiana	Dec 11, 1816	16	63,897
Mississippi	Dec 10, 1817	19	75,512
Illinois	Dec 3, 1818	9	24,620
Alabama	Dec 14, 1819	2	144,317
Maine	Mar 15, 1820	(c)	298,335
Missouri	Aug 10, 1821	9	66,586
Arkansas	June 15, 1836	17	52,240
Michigan	Jan 26, 1837	32	200,000
Florida	Mar 3, 1845	23	54,477
Texas	Dec 29, 1845	(c)	250,000
Iowa	Dec 28, 1846	8	81,920
Wisconsin	May 29, 1848	12	210,596
California	Sep 9, 1850	(c)	107,000
Minnesota	May 11, 1858	9	150,042
Oregon	Feb 14, 1859	11	52,465
Kansas	Jan 29, 1861	7	107,206
W. Virginia	June 19, 1863	(b)	376,683
Nevada	Oct 31, 1864	3	40,000
Nebraska	Mar 1, 1867	13	60,000
Colorado	Aug 1, 1876	15	150,000
S. Dakota	Nov 2, 1889	28	460,000
N. Dakota	Nov 2, 1889	28	(e)
Montana	Nov 8, 1889	25	112,000
Washington	Nov 11, 1889	36	273,000
Idaho	July 3, 1890	27	84,385
Wyoming	July 10, 1890	22	60,705
Utah	Jan 4, 1896	46	241,000
Oklahoma	Nov 16, 1907	17	1,414,177
New Mexico	Jan 6, 1912	62	338,470
Arizona	Feb 14, 1912	49	216,639
Alaska	Jan 3, 1959	47	211,000
Hawaii	Aug 21, 1959	59	595,000

a/For the 13 original States, dates and population figures represent when the States ratified the U.S. Constitution.

b/Was never a territory but formed from an existing State.

c/Went from independent Republic to statehood without territorial status.

d/Was an unorganized area under military rule and did not have a territorial act prior to statehood.

e/The 460,000 represents combined population for North and South Dakota.

The report also explained that before the Civil War, a paramount concern was to maintain a "delicate political balance" between slave and free States. This balance was jeopardized when Missouri tried to gain admission in 1819. The "Missouri Compromise" of 1820 resulted in Maine's admission as a free State, Missouri's admission with no slavery restriction, and the abolishment of slavery in all territory north of the Mason-Dixon line.

The slavery problems delaying California's admission were resolved after the "Great Compromise of 1850." California was admitted as a free State, and territorial governments were organized for Utah and New Mexico, both of which could later enter as free or slave States. In addition to slavery, some of the earlier statehood admissions were delayed because of boundary disputes.

By the Civil War's termination in 1865, 23 additional States had been admitted, bringing the total to 36. The 10 territories admitted in the shortest time all became States either before or during the Civil War. On the other hand, most of the 10 territories required to wait over 26 years were Western States admitted after 1880.

Major events took place in the late 1800s which contributed to economic development in Western territories and had an important bearing on statehood eligibility. The 1862 Homestead Act offered free title of up to 160 acres of unappropriated public land after 5 years continuous residence or cultivation. Railroads first connecting East and West in the late 1860s generated significant population growth. When the railroad finally reached Arizona and New Mexico in the 1880s, the ensuing population increase aided their admissions in 1912.

### CONCLUSIONS

The history of statehood admissions is one of both tradition and flexibility. While emphasizing the traditional principles of democracy, economic capability, and an adherence to the electorate's choice of self-government, the Congress has also considered each State's unique characteristics.

While statehood deliberations have resulted in some trends, the Congress' broad authority and the diversity of new States led to many variations in admission procedures, statehood conditions and provisions, and time elapsed before statehood was attained. The various factors affecting these patterns include population size and composition,

geographic location and characteristics, economic development, and historical circumstances.

Many issues that were examined in other statehood deliberations were also present in Alaska and Hawaii's prolonged efforts to gain admission. The following two chapters detail their statehood transitions to illustrate the tradition, increased complexity, and adaptability which characterize statehood admissions.

### CHAPTER 3

#### AFTER YEARS OF LIMITED SELF-GOVERNMENT ALASKA BECAME THE 49TH STATE

Years of restricted political and economic development prompted the Congress to help Alaska assume the increasingly complex responsibility of operating a State government. The statehood battle, however, was a lengthy one. Although the Congress recognized statehood's potential benefits to Alaska as well as the Nation, opposition arguments, such as the ability to finance a State government, delayed admission until 1959.

Despite substantial transitional aid, financial problems were encountered as federally performed functions were transferred to the new State. These difficulties were overcome, however, as oil and gas lease sales and other factors helped the new State maintain fiscal solvency. Statehood contributed to Alaska's early economic growth and brought residents political equality by removing limitations present throughout the territorial era.

#### TERRITORIAL HISTORY: EXTENSIVE RESTRICTIONS ON HOME RULE

Perhaps because it was considered remote and worthless, Alaska initially received little attention from the Federal Government. Covering 375 million acres, Alaska was purchased for \$7.2 million, about 2 cents an acre. Russia sold Alaska in 1867 because it needed money and did not believe such a distant area could be easily defended. For the first 17 years of U.S. rule, Alaska had no formal civil government or codified law, even though the purchase treaty extended the privileges of U.S. citizenship to certain residents. Instead, administrative responsibility was entrusted to various Federal military and civilian departments.

Despite widespread dissatisfaction among residents, the absence of governance remained until 1884, when Alaska's Civil Government Act was passed. Rather than conferring territorial status, the law labeled Alaska a civil and judicial "District" with a presidentially appointed Governor, Judge, and District Attorney. However, the law did not provide a delegate to the Congress or an elected legislative assembly

which residents sought. Instead of enacting civil and criminal laws, those for Oregon were made applicable, and Federal mining laws were extended to the territory.

Subsequent major legislation was not passed until national attention was drawn to Alaska by the gold rush in the 1890s. In 1898, railroad construction and a homestead act were authorized. Later, the Congress legislated a criminal code, established a civil government, and in 1906 gave Alaska a nonvoting delegate to the House of Representatives.

Although the Organic Act of 1912 authorized a locally elected assembly, this legislature was subject to restrictions which remained until statehood. For example, the legislature--16 House of Representative members and 8 Senators 1/--could not regulate Alaska's fish, game, mineral, or fur animal resources; organize county governments without congressional approval; or incur indebtedness. Moreover, the Congress could repeal any territorial legislation.

#### OBTAINING STATEHOOD: A LONG AND DIFFICULT PROCESS

Because of dissatisfaction with home rule restrictions Alaska's delegate submitted the first statehood bill in 1916. The bill died in committee without serious consideration, and residents waited almost 3 decades before trying again. Statehood bills again were introduced because World War II underscored Alaska's strategic significance and the territory's population increased.

In all, the Congress conducted 10 statehood hearings with various committees approving several different bills. Although statehood legislation was passed by the House in 1950 and Senate in 1954, neither bill received any further action.

Failing to gain admission, Alaska's legislature appropriated \$300,000 for a Constitutional Convention and \$75,000 to Alaska's Statehood Committee 2/ for studying prior statehood movements. The convention was convened in 1955 and the resulting constitution ratified the following year. Residents also

---

1/A 1942 amendment to the Organic Act provided 24 House Members and 16 Senators.

2/This Committee was established in 1949 to promote statehood.

elected a delegation (two Senators and a Representative) which had no actual authority other than to lobby for statehood. Many observers believed that this strategy, known as the Tennessee plan, served as a catalyst in attaining statehood approval. An Alaska statehood bill was approved by the House of Representatives in May 1958, and by the Senate a month later.

RESIDENTS BELIEVED STATEHOOD NEEDED  
FOR GREATER SELF-GOVERNMENT AND  
ECONOMIC EXPANSION

Throughout the long battle, local proponents offered numerous arguments favoring admission. Gaining equal political rights was one of the primary reasons many advocated statehood, according to congressional reports and interviews with territorial legislators, a Governor, and others. Although paying Federal income taxes, territorial residents' participation in national affairs was limited. "Taxation without representation" was the battle cry for many statehood supporters. Also, since Alaska was an incorporated territory, prostatehood forces claimed such status affirmed an inherent right to admission.

Proponents also stressed that statehood would end Federal restrictions on natural resource development and prime the territorial economy. Local management of fisheries--Alaska's basic industry--was prohibited despite repeated attempts to achieve regulatory control comparable to seaboard States. According to the Statehood Committee, lack of such authority resulted in an alarming depletion of salmon. Prostatehood residents also noted that population and economic growth were limited because the territory was precluded from controlling Alaska's vast public lands. Before statehood, only about 1 percent of the land had passed into private ownership, while the Federal Government owned the remainder.

NONRESIDENT INTERESTS LED  
STATEHOOD OPPOSITION

Alaska residents demonstrated their support for statehood by a 3 to 2 margin in a 1946 plebiscite, defeating opposition led by the non-resident-owned canned salmon industry. Ernest Gruening, former territorial governor and U.S. Senator, commented,

"While the majority was not overwhelming, the three to two vote was understandable because of the long-standing opposition propaganda of the really controlling forces--the absentee interests."

The salmon industry believed that tax increases would be needed to support a State government. Moreover, they feared that local management of fishing would result in eliminating fish traps--a net system which was already banned in several Pacific Northwest States and unpopular with Alaska residents. Also fearing increased taxes, non-resident-owned mining, liquor, and fur industries voiced opposition to statehood.

Some opponents advocated commonwealth status--with tax exemptions similar to Puerto Rico's--as an alternative, but this proposal received little support. Others suggested that Alaska be partitioned into separate entities, allowing only densely populated areas to comprise the State; but this argument was not widely supported.

CONGRESSIONAL REPORTS CITED ALASKA'S  
READINESS AND STATEHOOD'S POTENTIAL  
BENEFITS

Intense discussion of statehood's merits was not limited to territorial residents. After examining social and economic factors, as well as the territory's governmental structure and financial condition, a House Committee concluded in 1948 that Alaska was ready for immediate statehood. Similar findings were reiterated by congressional committees for 10 succeeding years.

In detailing Alaska's qualifications, committee reports described residents as loyal citizens in the sturdy frontiersman mold, steeped in the principles of democratic government. Supporting the U.S. military under actual invasion conditions during World War II was seen as, "\* \* \* unassailable proof of their loyalty, patriotism and stability." The 1946 statehood plebiscite was cited as evidence of majority support, and statehood sentiment was reportedly growing. Similarly, a Gallup poll revealed the American people's support for admission.

Concurring with local proponents, congressional reports concluded that statehood would benefit Alaska's political and economic development by ending extensive Federal control. In addition, committees noted that admission would secure the Nation's defense posture, since Alaska is strategically located only 54 miles from the Soviet Union. The Congress also believed statehood would enhance U.S. foreign policy by exemplifying the American tradition of equal rights for all.

## ANTISTATEHOOD ARGUMENTS INVOLVED LONGSTANDING ISSUES

Despite many favorable points regarding Alaska's suitability for admission, repeated attempts to obtain congressional approval failed for various reasons. Committee reports disclosed three longstanding antistatehood arguments: the territory's small population, physical isolation (noncontiguity) from the continental United States, and ability to finance a State government.

### Sparse population and noncontiguity

Questions whether Alaska--with a population of 128,643 in 1950--would be overrepresented by 2 Senators and a Representative consistently surfaced. In response, congressional reports noted that upon admission most States had less residents than Alaska, but the constitutional provision for two Senators and House members based on population always applied. Moreover, the territory's population reportedly grew at a greater rate than any State's since 1940.

Alaska's separation from the U.S. mainland also prompted opposition. Illustrating that contiguity was never a statehood requirement, a House report noted that when California was admitted in 1850, it was 1,500 miles away from the nearest State. Also, communication and travel advancements made Alaska, in effect, closer to Washington, D.C., than New York was to Boston when the United States was formed.

### Ability to meet statehood's financial requirements

The chief antistatehood argument concerned Alaska's ability to assume statehood's financial responsibilities. Critics noted this could be especially difficult if Federal military expenditures--a major contributor to the territorial economy--were suddenly curtailed. The Congress considered immediate reductions unlikely and stated that even if military construction declined, Federal operations would likely continue. Moreover, anticipated resource development after statehood was expected to reduce the dependence on Federal expenditures.

Accordingly, congressional reports concluded Alaska could meet statehood's additional financial obligations, estimated to be about \$9 million in 1955. This optimism stemmed from anticipated economic expansion after statehood, the lack of territorial bonded debt, and an accumulated \$11 million surplus in Alaska's treasury. Although the

surplus was expected to offset costs during the first year, moderate tax increases could be needed thereafter.

#### RESIDENTS APPROVED STATEHOOD ACT

Forty-two years after the first statehood bill was introduced, Alaska's Statehood Act was signed on July 7, 1958. It required separate ratification of three propositions before admission could be secured. In late August 1958 residents voted on whether Alaska should be admitted, State boundaries approved, and land grants and other provisions accepted. The Statehood Act would have been nullified if one of the provisions was defeated, but each was affirmed by at least a 5 to 1 margin. Alaska's congressional delegation was elected in November 1958, and a Presidential Proclamation formally admitting the new State was signed on January 3, 1959.

#### STATEHOOD BROUGHT LARGE LAND GRANT AND OTHER PROVISIONS

Recognizing that restrictions during territorial times retarded development, the Congress designed legislation to assist the new State. The Statehood Act authorized an unprecedented 102,550,000 acre land grant (equivalent to an area the size of California) from public lands within 25 years. Selections could be made from lands known to contain mineral deposits. Alaska was also given 400,000 acres of land from national forests and another 400,000 acres for community development.

Several other provisions granted a substantially increased share in profits from Federal activities. For example, where no revenues were received before, Alaska was granted 70 percent of the net proceeds from seal and otter fur sales, 90 percent of the net revenues from government-operated coal mines, and 52-1/2 percent of proceeds from other mining operations such as oil and gas activities on public lands. Also, the Federal Government donated property and equipment, previously used for fish and wildlife management. Moreover, Alaska could now participate in all Federal programs. For example, the Congress projected that fish and wildlife grants alone could amount to over a million dollars annually.

Measures to transfer functions previously performed by the Federal Government also appeared in the Statehood Act. The Federal territorial court was permitted to continue hearing cases until a State judiciary system could be established. This arrangement was limited by a Ninth Circuit Court of Appeals holding that it had no jurisdiction to hear appeals from Alaska's interim court. Fortunately, the State had passed

legislation and the new State Supreme Court assumed jurisdiction in October 1959. Another provision authorized temporary Federal retention of fish and wildlife management until the new State assumed this responsibility the year after admission.

#### TRANSITIONAL ASSISTANCE PROVIDED LATEP

Despite Statehood Act provisions, additional legislation was soon needed to cope with the transfer to statehood. In June 1959, the Alaska Omnibus Act was passed to provide transitional assistance. A Senate report justified the legislation as follows.

"\* \* \* It is recognized that some time necessarily will elapse before Alaska can either increase its revenues derived from existing sources or benefit fully from the revenues derived from public lands and other resources to be made available to the State by the Statehood Act. Without assistance, both in the form of funds and facilities and equipment, Alaska would be compelled to postpone for an indefinite period the assumption of some or all of the local government functions now performed by the Federal Government."

The Omnibus Act alleviated the burdens of assuming such functions as construction and maintenance of highways and recreational facilities, and airport operations. Transitional grants totaling \$28.5 million were authorized to be disbursed over a 5-year period, starting with \$10.5 million the first year. This amount was derived from Bureau of the Budget projections of what it would have cost the Federal Government to provide transferred services for this period. Transitional funds, however, were designated "unearmarked" and could be used to supplement the State's general or operating fund. Moreover, Alaska's governor could request Federal agencies to continue providing services on a reimbursable basis until the State was ready to assume control.

Provisions included more than the cash grant. Alaska's apportionment for education, health, and environmental grants-in-aid and income security programs was changed to provide equal participation. Two federally owned international airports, along with other property and equipment, were given to the new State.

In addition to clarifying the applicability of certain Federal laws, Alaska's Omnibus Act contained other features which maintained arrangements existing during territorial times. For example, when Alaska was a territory, a higher

ceiling for Federal mortgage insurance was authorized because construction costs exceeded those in other parts of the country. Recognizing this situation, the Congress continued the exception after statehood. Alaska's exemption from certain Federal transportation taxes was also retained. A Senate report traced the history of this exemption which in 1956 was justified

"\* \* \*[by] the fact that Alaska (and Hawaii) were far removed from the States and that transportation between the States and those two Territories involved travel over the high seas and/or a foreign country."

Two other notable Omnibus Act features provided special transition considerations. Alaska was permitted to use unobligated Federal Aid Highway Act funds from prior years for highway maintenance. Also, court fees and fines left over from the territory's federally controlled district court, reportedly amounting to \$500,000, were transferred to the State.

#### FINANCIAL REQUIREMENTS COMPLICATED STATEHOOD TRANSITION

Despite the optimistic views expressed prior to admission and the transitional assistance, financing statehood's additional responsibilities was not an easy task. Throughout most of the 1960s financial difficulties were encountered. According to a study of Alaska's transition, anticipated revenue increases from economic development did not materialize immediately. Further complicating matters, operating fund expenditures jumped from about \$20 million in 1958 to \$209 million in 1969, or over 1,050 percent, and outpaced revenue collected during most fiscal years.

Although faced with growing expenditures and dire projections, the new State managed to meet its obligations because it made financial adjustments, such as raising taxes and issuing bonds to finance capital projects. More importantly, it also realized proceeds from oil and gas leases and benefited from increased Federal expenditures and transitional assistance.

Alaska was faced with possible financial shortfalls when transitional aid expired, even though minor tax increases were levied in 1960. Consequently, personal income taxes, the largest single revenue source at the time, were raised 2 percent in 1961, and motor vehicle license fees and excise taxes on liquor, cigarettes, and gasoline were hiked. The State

also used bonds as another revenue source. With the territorial restriction from issuing bonds lifted after statehood, bonded debt rose to \$166 million by 1969.

Land obtained under the Statehood Act provided other important revenues. Oil and gas lease sales soon after statehood netted \$4 million. Likewise, Alaska received several million more than the State reportedly expected from its 1961 lease sales. Another sale in the Cook Inlet area provided about \$17 million the next year. The most significant sale, however, was the \$900 million received for drilling rights to Prudhoe Bay in 1969. This gave the State's dwindling operating fund an important boost to begin the next decade and according to the State's first Governor, helped keep Alaska from bankruptcy.

The Federal contribution to Alaska's operating fund also increased markedly, due in part to assistance after a massive 1964 earthquake. State officials noted that the earthquake aid, about \$321 million, bolstered Alaska's economy and financial condition at a critical stage. This assistance included a \$23.5 million extension of earlier transitional grants to compensate for reduced revenues and continue State services during the reconstruction period. The Omnibus Act Amendments of 1964 also authorized emergency funds for rebuilding damaged highways, grants for reconstruction activities or capital improvements, and aid to assist families in repaying mortgages on damaged property.

#### LAND GRANT--THE REMAINING TRANSITIONAL PROBLEM

While the State maintained fiscal solvency, its success with another aspect of the statehood transition--gaining title to the Statehood Act land grant--has been limited. Native claims settlement legislation, executive agency actions, and a large withdrawal by the President have all contributed to the controversy over who is entitled to what land.

Because the State needed time to choose lands with the best potential for settlement and natural resource development and weigh the financial consequences of land selections, the early selection process moved slowly. As choices were made, however, Alaskan Natives (Eskimos, Aleuts, and Indians) complained and filed claims covering virtually all of the State. In response, the Secretary of Interior ordered a "freeze" on the land selection process in 1966 until the Congress resolved the claims. At that time the State had obtained only 6 million of 17 million acres selected.

Native claims were not a new issue. The 1884 civil government act recognized that Natives had a stake in Alaska's land, but deferred adjudication of claims. Natives rights were also addressed in the Statehood Act, but the compensation issue was again postponed. Finally, the Alaska Native Claims Settlement Act was passed in 1971 authorizing Natives to select about 40 million acres and granting nearly \$1 billion for compensation. In addition, the Secretary of Interior was authorized to withdraw temporarily 80 million acres from which the Congress was to designate parks or wilderness areas.

Because such legislation was not enacted, the Secretary, using emergency authority, expanded the previous withdrawal to 110 million acres in November 1978. One month later the President designated 56 million acres as "national monuments." Much of this land was already included in the Secretary's withdrawal. Unless modified by the Congress or overturned by the courts--the State is challenging the President's authority--further development on these lands will be permanently precluded.

This complex land issue has become highly emotional. Although Alaska has made all land grant selections, the Federal Government has approved only 37 percent as of early 1979 and still owns much of Alaska's lands. How much of these vast landholdings should be declared wilderness or national monuments and restricted from development is the subject of current legislative proposals. State and industry representatives contend that the President's actions, as well as some proposed legislation, could retard Alaska's economic growth.

#### POLITICAL EQUALITY ACHIEVED THROUGH STATEHOOD

Admission brought Alaska residents their long-sought goal of increased self-government and equal participation in national affairs. Through statehood, residents gained the right to

- voting representation in the Congress, assuring a stronger voice in Federal legislation affecting the State;
- vote in national elections; and
- elect their governor and have local functions--especially natural resource management and justice--administered by the State instead of the Federal Government.

### ECONOMY EXPANDED IN POSTSTATEHOOD DECADE

Alaska's economy grew in the poststatehood decade, as illustrated on the next page. Population growth continued and the economy expanded to provide employment for newcomers. In addition, personal income and population growth outpaced the annual national average from 1961 to 1973.

Selected Economic Indicators

	<u>1960</u>	<u>1969</u>	<u>Percent change</u>
Gross state product (millions)	\$ 747	\$1,654	121
Personal income (millions)	\$ 628	\$1,412	125
Per capita income	\$2,743	\$4,638	69
Population	226,167	300,382	33

Employment by Sector (note a)

----- (000 omitted) -----

State and local governments	7	17	143
Federal Government (including defense)	49	49	-
Support sector industries (transportation, communications, utilities, services trade, finance)	21	36	72
Mining (including oil and gas exploration)	1	4	300
Construction	6	7	17
Manufacturing	6	7	17
Nonwage and nonsalary employees	<u>10</u>	<u>12</u>	20
Total employed work force	<u>100</u>	<u>132</u>	

a/According to Alaska's Institute of Social, Economic, and Government Research, employment data provides a good representation of Alaska's economic structure.

State and local government employment more than doubled in the 10 years after admission because the State assumed services previously performed by the Federal Government, population increased, and the scope of programs broadened. A recent study <sup>1/</sup> of Alaska's poststatehood economy concluded that State and local government hiring was one factor prompting economic growth as its contribution to disposable income accelerated sharply. Likewise, the study noted that support sector industries, which provide the facilities and services required by a growing economy and population, also expanded during the poststatehood decade.

Other sectors also grew. Oil and gas production increased dramatically, particularly in the late 1960s. Although fluctuating, fisheries also experienced overall growth. Although in part prompted by oil exploration and rebuilding efforts following the 1964 earthquake, construction activity also grew to accommodate expanding needs. Publicity surrounding the statehood drive and greater promotion brought a substantial increase in tourists. Alaska's exports--mostly wood products to Japan--more than tripled. The Federal Government sector continued to be an important economic component and remained the largest single employer.

### CONCLUSIONS

Recognizing that political and economic development had been restricted, the Congress was adaptable in legislating Alaska's statehood transition. Following its purchase from Russia in 1867, Alaska was virtually ignored for years before limited self-governing measures were granted. Although a Governor was finally appointed in 1884, an elected legislature was not authorized until 1912. Also, residents had little control over Alaska's abundant natural resources, and many services were administered by the Federal instead of the territorial government.

Many Alaska residents believed that only statehood would bring political equality and control over their future. Early congressional investigations recognized that statehood could benefit Alaska and the Nation. Gaining admission, however, proved difficult as opponents cited factors such as the territory's noncontiguity to the mainland and questionable ability to finance a State government.

---

<sup>1/</sup>Kresge, David T., et al. Issues in Alaska Development, Institute of Social, Economic and Government Research, University of Alaska, 1977.

When statehood was finally achieved in 1959, the consequences of years of limited local control became evident as a State government began operation. Despite transitional assistance, financial difficulties were encountered during the early statehood years. Nevertheless, Alaska met its financial obligations because of fiscal adjustments, proceeds from oil and gas leases, and Federal assistance.

As Alaska assumed its additional responsibilities, State and local employment increased. Support sector growth, expanded natural resource production, tourism, and construction also contributed to the poststatehood economic expansion. Through statehood, residents achieved their long-sought goal of political equality, thus assuring greater control over local affairs and a stronger voice in national matters.

## CHAPTER 4

### HAWAII: PACIFIC KINGDOM TO 50th STATE

The transformation of eight major tropical islands--with a culture and history different from the mainland--into a State is a story unique in American history. First brought by missionaries in the early 1800s, American influence continued to increase. Later, increased recognition of the islands' strategic value prompted annexation to the United States in 1898.

Although the first statehood bill was drafted soon thereafter, almost 60 years elapsed before admission into the Union. Even though the territory was judged capable of fulfilling statehood responsibilities, issues like alleged Communism thwarted repeated attempts. Admission was finally achieved in 1959 and brought Hawaii's residents political equality--statehood's most important impact. The transition to the new status proceeded smoothly primarily because Hawaii already provided a normal range of State government services and experienced continued economic growth.

#### MISSIONARY INFLUENCE, TRADE, AND STRATEGIC VALUE LED TO ANNEXATION IN 1898

A new era in Hawaii began in 1820 with the arrival of New England missionaries. Soon thereafter, many natives were converted to Christianity and Western culture began taking root. Missionaries set up a printing press, introduced the Roman alphabet, promoted a constitutional government, and established schools. By 1832, according to one researcher " \* \* \* 53,000 pupils were studying under missionary supervision and over a decade later, 80 percent of the people could read." Moreover, Hawaii's public schools became increasingly American in character, and by 1894 English was the primary medium of instruction. As missionary influence grew, an influx of American and European whalers, sugar planters, and trade speculators prompted economic ties.

Paralleling this increasing westernization was a recognition of Hawaii's strategic location in the mid-Pacific, about 2,400 miles southwest of San Francisco. The British took control of Hawaii's government briefly in 1843, and the French occupied Honolulu for several days in 1849. These incidents, in addition to growing American interests and Presidential support, led to U.S.-Hawaii negotiations to annex the islands as a State in 1854. The treaty never reached the Congress because the Hawaiian king died before signing it. Such sentiment, however, set the stage for later efforts to make Hawaii a part of the United States.

After several attempts, a treaty of commercial reciprocity took effect in 1876, forging stronger U.S. ties with Hawaii. Sugar gained duty-free entry into U.S. markets. In return, Hawaii promised that no special privileges would be accorded to other foreign powers. According to a Library of Congress report, the treaty proved to be of far-reaching consequences as Hawaii's economy became so tied to the United States that political union became virtually inevitable.

Although the treaty was later renewed, with the U.S. receiving the exclusive right to use Pearl Harbor, events followed which altered Hawaii's future. Prompted by political differences and economic pressures, the Hawaiian monarchy was overthrown and an independent Republic formed in 1894. Soon thereafter, Hawaii's legislators revived petitions for annexation. Concomitantly, the Spanish-American War underscored Hawaii's strategic value as Honolulu became a stop-over point for U.S. ships bound for the Philippines.

Consequently, legislation--known as the Newlands Resolution--was passed, annexing Hawaii in mid-1898. Under the resolution, public lands were ceded to the Federal Government and the United States assumed Hawaii's public debt. The Republic's government continued until a Presidential Commission proposed a territorial government. The Commission's recommendations were incorporated in Hawaii's Organic Act of 1900.

#### ORGANIC ACT SET UP TERRITORIAL GOVERNMENT

Hawaii's Organic Act served as its constitution. It called for an elected legislature with 30 House members and 15 Senators, with legislative proceedings to be in English. Also, island residents became U.S. citizens. Although the Federal Government owned public lands, the act allowed Hawaii to supervise development and retain any proceeds.

While the territorial government resembled a State, key differences existed. Permanent residents could not vote in national elections and were represented by one nonvoting delegate in the House of Representatives. The Governor, Secretary of the Territory (lieutenant governor), and local Supreme, Circuit, and District Court judges were appointed by the President. Like States, the territorial legislature could pass a broad range of legislation, levy taxes, and approve budgets; but an indebtedness ceiling was imposed. In addition, the Congress, although it never did, could amend or invalidate any territorial law or change the government structure.

## THE STATEHOOD DRIVE--DECADES OF PERSEVERANCE

Hawaii's statehood quest began in 1903 when it petitioned the Congress, marking the first of many vain attempts. At least 66 admission bills were introduced. Twenty-two hearings with over 850 witnesses generated 6,600 pages on this issue. Hawaii's statehood was the most thoroughly studied in American history.

Despite favorable congressional reports, numerous roadblocks were encountered. In 1937, a committee conducted a thorough investigation of Hawaii's economy, political institutions, and social conditions and recommended a local vote. The ensuing 1940 plebiscite showed that statehood was favored by a 2 to 1 margin. Held in abeyance during the war years, deliberations resumed in 1946 when a House Subcommittee recommended that statehood be given immediate consideration. In every Congress thereafter statehood bills were introduced and reported, but never enacted. Finally, in 1959, the Congress approved statehood, culminating years of concerted effort by Islanders.

## DESIRE TO ELIMINATE SECOND CLASS CITIZENSHIP MOTIVATED STATEHOOD PROPONENTS

Like Alaska, attaining equal political rights motivated proponents throughout Hawaii's long and arduous statehood bid. Their rallying point was that residents paid Federal taxes but could not fully participate in the Nation's political processes. They believed statehood was the only way to end "second class citizenship" and eliminate "taxation without representation." Supporters also argued that, as an incorporated territory, Hawaii was destined for statehood.

An active statehood movement developed in the mid-1930s and received widespread support. Interest was sparked by legislation subjecting Hawaii's sugar to foreign import quotas. Moreover, discussion of imposing military rule, because of an infamous rape/murder case, also intensified efforts to attain statehood. To further promote statehood, a Statehood Commission was established and funded by the territorial legislature in 1947. The Commission conducted publicity campaigns and served as Hawaii's official advocate before the Congress.

Conversely, local opposition was not well organized. Statehood Commission records reveal that only 82 of the witnesses before congressional investigating committees were against statehood. Generally, opponents favored

the status quo, or commonwealth status with tax exemptions similar to Puerto Rico; but these ideas received little support. A large antistatehood group were native Hawaiians who feared further diminution of cultural identity. Many other pro and con viewpoints expressed throughout the statehood quest are best described within the context of how the Congress justified Hawaii's admission into the Union.

#### STATEHOOD ELIGIBILITY AFFIRMED

From 1946 on, congressional committees recognized Hawaii was worthy of statehood and had fulfilled the traditional criteria. Committee reports concluded that Hawaii's residents had an historic attachment to American principles of democracy. Years of successful territorial governance, and adoption of a proposed State constitution conforming to the U.S. model, were cited as proof of Islanders' belief in American ideals.

Hawaii's excellent war record was also recognized as proving loyalty and patriotism. Volunteers of Japanese ancestry in an infantry unit were awarded many medals and combat decorations in World War II. Likewise, soldiers from Hawaii were commended for their Korean War service.

A 1940 plebiscite favoring statehood by a 2 to 1 margin, ratification of the State constitution, and the persistent introduction of statehood legislation were cited as ample support of the electorate's desire for admission.

In its report accompanying the approved statehood bill, the Congress concluded unequivocally that Hawaii had sufficient resources to support a State government and to continue paying a full share of the Federal Government's costs. Considered an economic asset since annexation, Hawaii was labeled the richest territory ever to become a State. Many examples of the island's economic vitality were provided:

- The economy was stable; defense expenditures constituted the largest single income source because Hawaii was the bastion of U.S. Pacific military strength. The island also had an efficient agricultural system and a burgeoning tourist trade.
- In 1958, Islanders paid more Federal income taxes than 10 of the States. Also, Hawaii's per capita personal income historically approximated the mainland's and by 1958 exceeded that of 26 States.

--The territorial government, almost totally supported by local revenue, already provided a normal range of services. The quality of these services was evidenced by Hawaii's healthy and educated populace.

#### CONGRESSIONAL OPPOSITION DELAYED ADMISSION

Despite Hawaii's fulfillment of the traditional criteria, various antistatehood arguments helped to delay admission approval. Congressional committee reports disclosed that the opposition to statehood centered around allegations of Communist influence, disproportionate congressional representation, racial composition, alleged economic domination by five corporations, and noncontiguity. The argument concerning Hawaii's physical separation from the mainland dissipated as communication and transportation technology improved; it was finally eliminated when Alaska obtained statehood.

Allegations of Communist influence were prevalent. Opponents believed that granting Hawaii statehood would be dangerous because Communists, through labor unions, had a stranglehold on the economy and enough political power to influence the stability of the territory. A Senate subcommittee report, however, found no evidence of Communist influence in the territorial government. Further, the Justice Department concluded in the 1950s that there was nothing to substantiate allegations that the State's Senators or Congressmen would be subject to Communist influence.

Statehood opponents also voiced concern over whether the rather large Asian (37 percent Japanese, 12 percent Filipinos, and 7 percent Chinese ancestry, according to census figures) population would be loyal in a national emergency. While this fear was alleviated by Hawaii's excellent World War II performance, arguments that caucasians were outnumbered remained. This issue was confronted in the report accompanying the approved statehood bill,

"[This] \* \* \* objection, that of racial heterogeneity in the Territory, appears to be based on reasons which for the most part rarely are expressed frankly and openly. With the entire free world looking to the United States for moral and spiritual leadership, the Committee does not believe that the 86th Congress will deny full political equality to a group of its own citizens who have met every historic test of qualifying for statehood merely because of the ancestry of a part of that group."

Arguments concerning disproportionate congressional representation were similar to those against Alaska statehood. Opponents contended that one Islander would have a voice in the Senate equal to 17 Californians, but it was noted that a Nevada resident had a voice equal to 66 Californians. Moreover, Hawaii's population, about 600,000 in the mid 1950s was larger than five mainland States; with the exception of Oklahoma, it exceeded that of any State upon admission.

Earlier statehood investigations were concerned with the dominant role five corporations played in Hawaii's economy. These corporations handled over 95 percent of all the sugar exported. A 1946 House Subcommittee report found that the "big five" dominated a large portion of the economy, but concluded that their activities did not preclude establishment of varied businesses or restrain trade.

With these issues finally settled, the Congress approved Hawaii's admission. The report accompanying the final bill commented that statehood was in the best interest of the Nation as well as the territory, and cited polls which showed that the American public favored statehood by a wide margin.

#### ADMISSION ACT RATIFIED AND SMOOTH STATEHOOD TRANSITION ENSUED

Hawaii's Admission Act required residents to separately approve immediate admittance into the Union, State boundaries, and grants and other property transfers. Other features of the act included establishing elections for Federal and State representatives and making Hawaii eligible for Federal assistance not received as a territory. In addition, Hawaii obtained title of all previously ceded public lands not in use by the U.S. Government.

Each Admission Act provision passed by a 17 to 1 margin, and the statehood transition began. This was a relatively uncomplicated process because Hawaii already provided normal State government services, had plans to reorganize the territorial government, and experienced continued prosperity. The new State's fiscal posture remained sound as tax collections and Federal aid increased. Since general excise and income taxes were the largest revenue producers, the government benefited from continued population and economic growth. Operating revenues increased annually from \$79.8 million in 1958 to \$178.8 million in 1965, a 124-percent increase without any major tax hike. Federal grants accruing to the operating or general fund rose from \$5.2 million in fiscal year 1958 to \$43.4 million in 1965. Throughout this period Hawaii

maintained the high bond ratings earned during territorial times, and the State's general fund remained sound.

Hawaii's good financial condition enabled it to meet comfortably the additional costs of statehood. These transitional costs were estimated at \$400,000, or one-third of 1 percent of fiscal year 1958 tax collections. They included salaries and expenses of the Governor, judges, and other government officials formerly paid by the Federal Government, and additional State legislators.

#### OMNIBUS ACT BROUGHT EQUAL TREATMENT UNDER ALL FEDERAL LEGISLATION

Because of its financial position, Hawaii required no special assistance during its statehood transition. When statehood was approved, however, the need for follow-up measures to gather up the loose ends in Federal legislation affecting Hawaii's transition resulted in the Hawaii Omnibus Act. Although many sections were technical amendments which substituted the word "State" for "Territory" in existing legislation, some provisions brought Hawaii additional aid.

The methods for computing Hawaii's share of certain Federal grants were changed to ensure uniform treatment. The most lucrative was an amendment involving \$12.4 million in highway funds. Additionally, Hawaii's treatment in public assistance programs was altered to provide a proportionate share. These changes were estimated to bring the new State an extra \$215,000 annually.

Other Omnibus Act provisions illustrate congressional adaptability in tailoring statehood legislation to particular circumstances. For example, because public lands for the Morrill Act were absent, the Congress appropriated \$6 million to the State University. Also, like Alaska, Hawaii was permitted to retain certain arrangements present during the territorial era. For example, because a partial exemption from Federal transportation taxes covered only the portion of the trip outside the United States, the Congress affirmed that this extension did not conflict with the constitutional provision for uniform Federal taxation.

#### STATEHOOD BROUGHT POLITICAL EQUALITY AS ECONOMIC GROWTH CONTINUED

Gaining political equality and representation was seen as statehood's most significant impact. Also, Hawaii's healthy territorial economy continued to grow in the decade after statehood, as the chart below indicates. This growth

was given early impetus by an increase in military activities and personnel during the late 1950s, prompting increases in population and construction activity.

Selected Economic Indicators

	<u>1948</u>	<u>1958</u>	<u>10-year percent change</u>	<u>1968</u>	<u>10-year percent change</u>
Population	517,013	605,356	17	734,456	21
Civilian employment	184,020	201,370	9	297,030	48
Per capita income	\$1,407	\$1,983	41	3,779	91
	(millions)			(millions)	
Gross state product	\$ 880	\$1,412	60	\$3,351	137
Personal income	723	1,180	63	2,717	130
Deposits of all financial institutions	450	769	71	1,786	132
Loans of all financial institutions	182	510	180	1,508	196
Investments of mainland and foreign insurance companies	17	168	888	625	272
Gross assessed value of real property	590	2,053	248	6,044	194

Sources: Bank of Hawaii and State Department of Planning and Economic Development.

The rate of growth, adjusted for inflation, in Hawaii's Gross State Product exceeded that of the U.S. Gross National Product in 7 of the 11 years from 1959 and 1969. Also, Hawaii's per capita income annually exceeded the U.S. average and ranked 19th or better among all States. In the 10 years following statehood, gross savings and investment more than tripled. The number of jobs continued to grow, and Hawaii's unemployment rate was consistently lower than the U.S. rate.

Hawaii's poststatehood growth also continued the shift which began during territorial times from an agricultural based economy to a more diversified one. Part of this

expansion has been attributed to the tremendous growth in tourism and construction. The following chart illustrates the trends in the various economic sectors.

Contribution of Hawaii's Major Industries  
to Gross State Product (GSP)

	<u>1948</u>		<u>1958</u>		<u>1968</u>	
	<u>Millions</u>	<u>Percent of GSP</u>	<u>Millions</u>	<u>Percent of GSP</u>	<u>Millions</u>	<u>Percent of GSP</u>
Diversified agriculture	\$ 28.5	3	\$ 41.9	3	\$ 55.9	2
Pineapple	89.8	10	130.1	9	127.6	4
Sugar	109.0	12	105.4	7	200.0	6
Construction completed	97.7	11	174.6	12	463.0	14
Manufacturing sales	65.5	7	119.5	8	365.0	11
Visitor expenditures (tourism)	18.9	2	82.7	6	440.0	13
Federal Government expenditures	162.0	18	421.0	29	911.4	27

Sources: Bank of Hawaii and State Department of Planning and Economic Development.

Tourism began to grow during the territorial era and accelerated after statehood, because of jet service which cut travel time almost in half, reduced airfares, the publicity surrounding statehood, and increased promotion. The burgeoning tourist trade sparked the need for hotel units which, along with an increased demand for homes, caused a construction boom. Visitors to the island steadily increased from about 34,000 in 1949 to 1.5 million in 1969. The number of hotel units grew from about 2,000 to approximately 26,000 during the same period.

Federal expenditures continued to increase after statehood but declined as a percent of gross state product. Concurrently, Hawaii's contribution in Federal taxes increased over 200 percent in the decade following statehood.

Most government and business representatives interviewed believed that Hawaii's economy would have continued to grow, albeit slower, without statehood. Most mentioned that statehood had a favorable impact, but it could not be measured or segregated from the effect of the jet age which brought an

increased awareness of Hawaii's economic potential. Others noted that investor confidence was already high and increasing. Statehood made investment capital more available by removing remaining psychological barriers about investing in a "foreign entity."

#### CONCLUSIONS

By admitting Hawaii into the Union, the Congress accepted a group of islands with unique characteristics as a fully participating member in the American governmental system. The latest State was only admitted, however, after decades of vigorous efforts to dissipate arguments precluding earlier admission. From the outset of congressional investigations, the Congress recognized that Hawaii was a worthy candidate, but issues ranging from alleged Communist influence to the population's racial composition prompted debates which continually blocked statehood. Hawaii's persistence was ultimately rewarded and its long-sought goal--statehood--was finally achieved.

Attaining the new status proved to be considerably more difficult than organizing and financing a State government. Statehood transition required no special assistance because Hawaii already administered the full range of State government services. Moreover, the territory's prosperous economy continued to grow, providing revenues for the new State's coffers. Although political equality was seen as statehood's most significant impact, the new status along with introduction of jet service and other activities were also perceived to be responsible for poststatehood economic growth.

## CHAPTER 5

### THE PHILIPPINE ISLANDS OPT FOR INDEPENDENCE

In 1946, the Philippine Islands attained their long-sought goal of independence. When the Spanish-American War began in 1898, the Filipinos were fighting for freedom from Spain. After the war, the Philippines were ceded to the United States, but the desire for independence lingered. Although it was not immediately provided, the Congress later declared its intent to grant independence when a stable government was established.

In 1934 the Congress recognized the stability of the Philippine government and arranged for a 10-year transitional commonwealth period to help offset any potentially damaging effects of the new status. Recognizing the Philippines' unique situation, the Congress also designed special legislation for the first transition of a territory to independence. Most notably, because the Philippine economy had become dependent on free trade with the United States, trade preferences were gradually eliminated.

#### OPPRESSIVE SPANISH RULE LED TO U.S. SOVEREIGNTY AND AN UNCERTAIN FUTURE

The Philippine inhabitants' lifestyle has traditionally been influenced by the archipelago's geographic characteristics. The Philippines, consisting of over 7,000 islands, historically were populated by several major tribes living in self-sufficient predominantly isolated communities, each differing in language, customs, religion, and laws. These geographical and cultural patterns limited transportation, communication, and technological development, and restricted a cohesive national identity.

Beginning with Magellan's discovery in the 1500s, the Philippines were significantly affected by approximately 300 years of Spanish dominion. Communities were reorganized into centrally governed towns and provinces ruled by Spanish-appointed officials. An extensive taxation system was established. Commercial agriculture, introduced in the late 1700s, led to crop specialization.

Spanish officials' severe constraint of Philippine civil and religious liberties eventually led to an independence movement. Following several Native revolts, a full-scale rebellion began in 1896 after a Filipino patriot was executed. Although this war was temporarily ended in 1897, the treaty's terms granting greater political and religious rights were never honored, and the hostilities resumed.

Spanish rule finally ended in 1898. The United States declared war on Spain in April 1898 primarily to help liberate Cuba, which, like the Philippines, was waging war against Spain. On May 1, 1898, U.S. Admiral Dewey destroyed the Spanish fleet in Manila Bay, and then later captured Manila. After the war, Spain relinquished sovereignty over Cuba and ceded the Philippine Islands to the United States in the December 1898 Treaty of Peace. Although Cuba was never a U.S. territory, the United States occupied it, and soon thereafter, recognized the island's independence. However, the future status of the Philippines was left uncertain.

#### IMMEDIATE INDEPENDENCE DENIED AND CIVIL GOVERNMENT ESTABLISHED

United States' sovereignty was not readily accepted and presented difficulties in determining the Philippines' status. The Filipino insurgents who fought against Spain immediately called for independence. Because resistance continued, a Military Governor retained executive powers until 1901. In the interim, President McKinley appointed the Schurman Commission to examine conditions in the Philippines.

The Commission concluded that the existing political structures could not sustain an independent nation and recommended that the United States provide authority, guidance, and protection, and develop the Philippines' social and political institutions. The highly centralized Spanish control over all government levels restricted Filipinos from participating in government matters and denied most the right to vote. Because municipal revenues were often diverted from local control, construction of roads, bridges, and schools was limited. Educational development was lacking and serious health problems existed.

Subsequently, in September 1900, a presidentially appointed Philippine Commission began exercising legislative powers and administering the territory. The first civil governor, William Howard Taft, was concerned primarily with restoring law and order, establishing public education taught in English, modifying the legal system, furnishing public services and utilities, and improving social and economic conditions.

Gradually, additional governing measures were instituted. The first Philippine Organic Act, passed in July 1902, established the government's organization and administrative procedures. The President appointed the Civil Governor, Vice-Governor, members of the Philippine Commission and heads of executive departments. Procedures were authorized for administering public lands, mineral claims, government land

purchases and revenues, and minting coinage in pesos. The U.S. Supreme Court had jurisdiction over Philippine Supreme Court decisions involving amounts exceeding \$25,000. A declaration of civil and religious rights was included, and the island residents deemed U.S. nationals, but not U.S. citizens. The Philippines were also authorized to send two Resident Commissioners as official representatives to the United States.

Some self-governing mechanisms were also initiated. This first Organic Act authorized an elective Philippine Assembly, which along with the Philippine Commission would form a bicameral legislature. Judicial functions, previously exercised by the Philippine Commission, were transferred to municipal courts. The Governor appointed Philippine Lower Court Judges. Previously, in 1901, the Filipinos were given control of municipal governments and in 1903 were permitted to elect provincial Governors. By 1913 a majority of the Commission members were Filipinos.

#### THE CONGRESS DECLARED SUPPORT FOR INDEPENDENCE

In August 1916, the Congress declared its intent to recognize Philippine independence as soon as a stable government was established. Greater Filipino control over domestic affairs was granted to prepare them for assuming all responsibilities. All legislative jurisdiction was eventually turned over to an elective Philippine Legislature, consisting of a Senate and House of Representatives. However, all laws passed were reported to the Congress, which could annul these statutes. A presidentially appointed Governor-General assumed chief executive powers, but Filipinos headed almost all executive departments. Federal property acquired in the 1898 Treaty, not in use by the U.S. Government, was placed under local control.

#### COMMONWEALTH GOVERNMENT: POLITICAL TRANSITION TO INDEPENDENCE

After extensively reviewing the Filipinos' progression toward self-government, the Congress concluded in the early 1930s that the Philippines were ready for independence. Although the government's functions and finances were pronounced stable, a transition period was proposed because:

"\* \* \* The present free-trade reciprocity between the United States and the Philippines was established by the American Congress against the opposition of the Filipino people. The major industries of

the islands have been built on the basis of that arrangement. This trade arrangement cannot be terminated abruptly without injuring both American and Philippine economic interests."

On March 24, 1934, the "blueprint" for independence was established in the Philippine Independence Act. A 10-year transitional Commonwealth government was established, and the Philippine Legislature was authorized to have a Commonwealth constitution drafted.

The 1934 Independence Act mandated that the constitution contain certain provisions establishing the parameters of the Commonwealth's authority. For example:

- The constitution must be republican in form and contain a bill of rights.
- The United States could intervene to protect life, property, and civil liberties, expropriate property for public uses, and maintain military reservations and forces in the Philippines. Also, U.S. property was to be tax-exempt. Foreign affairs were under direct U.S. control, and the President had to approve acts affecting currency, trade, and immigration.
- All acts passed by the Commonwealth Legislature had to be reported to the Congress, and Commonwealth courts' decisions were subject to U.S. Supreme Court review.
- An adequate public school system was to be primarily conducted in English.
- Public debt limits were fixed, and no loans were to be contracted with foreign countries without presidential approval.

The constitution also included provisions addressing postindependence settlement procedures for property rights and financial and treaty obligations. Finally, the Commonwealth had one nonvoting Resident Commissioner to the House of Representatives, and a presidentially appointed U.S. High Commissioner served as the U.S. representative to the Philippines.

The constitution was approved by the United States and ratified by the Filipinos. According to the Independence Act, Filipino approval would be deemed a mandate for independence. Soon after, a Filipino President and Vice-President were elected, and the Commonwealth government was established in November 1935.

## NEED FOR ECONOMIC TRANSITION STUDIED

Weighing the potential impacts of independence upon U.S.-Philippine economic relations involved many divergent interests. The Philippine economy was predominantly agricultural and dependent on free trade with the United States. Consequently, U.S. farmers advocated independence to reduce the Philippines' competitive advantage. Likewise, American labor groups, beset by high unemployment in the depression era, encouraged limitations upon the unrestricted Filipino immigration.

The U.S.-Philippine trade relationship played an important role in the island's economy. In 1909, a mutual duty-free trade agreement on merchandise produced within each country was initiated, except for rice and on amounts exceeding prescribed quotas of sugar, tobacco, and cigars. Duty fees levied on all exports not domestically produced were comparable to those on foreign goods and subject to taxes by the importing country. All revenues collected from U.S.-Philippine trade were turned over to the island treasury. Also, a 1906 act stipulated that all merchandise and passengers transported between the United States and the Philippines had to be shipped in U.S. vessels beginning in April 1909.

Before revising U.S.-Philippine trade terms under independence, the Congress closely reviewed the progress of social and fiscal conditions since 1900. Steady improvements in Philippine health and sanitation matters had been made and a public education system had been established. The Philippine currency was pronounced sound. In 1934 the population numbered approximately 14 million, up from 8 million in 1900. The government's budget was diagnosed as stable. For example, indebtedness was only 48 percent of the congressionally fixed limit. Also in 1930, 72 percent of the island's trade was with the United States, compared to 16 percent in 1909, and resulted in a trade surplus.

However, the Congress recognized that the loss of special U.S. trade preferences could significantly disrupt the Philippine's economic stability. Although the major products shipped to the United States included coconut oil, cordage, and tobacco, sugar constituted 63 percent of the island's total exports. This dependency on one crop was particularly alarming considering unfavorable market conditions. For example, nearby Java, which produced sugar at less cost than the Philippines, had to store about 4 million tons.

To help alleviate the dependency on sugar and strengthen the Philippine economy for independence, the Governor-General in 1932 made several recommendations. To lessen the reliance

on U.S. trade, he suggested that trade be expanded with other nations, particularly in the Orient. He also stressed a need for year-round cultivation of products such as rice, and the development of a fishing industry to reduce the need to import these items. Also, little or no manufacturing was done even though raw materials were at hand.

ECONOMIC TIES REDUCED TO PREPARE  
FOR INDEPENDENCE

To help offset potential detrimental effects of independence, the Congress revised the U.S.-Philippine trade structure in the 1934 Independence Act and its subsequent 1939 amendments.

Beginning January 1, 1941 <sup>1/</sup> an export tax of 5 percent of U.S. import duties was to be levied on all Philippine products shipped to the United States, except for duty-free quotas on certain items. Over the next 5 years this tax would increase annually by 5 percent and the quota amounts would decrease annually by the same amount. The export taxes were collected by the Philippines and deposited in a U.S. sinking fund account to retire Philippine municipal bonds issued prior to May 1, 1934.

After independence, duties on Philippine exports to the United States were to be comparable with those for foreign countries. A U.S.-Philippine conference was to meet prior to independence to consider future trade relations.

In addition to revising trade arrangements, immigration policies were revamped. Prior to the Commonwealth period, the Philippines had unrestricted immigration status, and by 1930 there were 45,208 Filipinos in the United States. For the transitional period, the islands were treated as a separate country and its annual quota fixed at 50. Upon attaining independence, the quota was set at 100 and raised to 20,000 in 1965.

---

<sup>1/</sup>A 1941 Congressional Act (Public Law 367) passed December 22, 1941, suspended the export tax and quota reductions for 1942 because of the prevailing hardships on Philippine trade due to World War II.

INDEPENDENCE BROUGHT AUTONOMY AND  
CHALLENGES IN COPING WITH  
DISASTROUS EFFECTS OF WORLD WAR II

Independence on July 4, 1946, brought the Filipinos political autonomy and complete control over their own affairs; however, the unforeseen devastating effects of the Japanese occupation between December 1941 and October 1945 created monumental problems. The last U.S. High Commissioner described the immediate postwar condition as follows:

"\* \* \* The Philippines was without question the most completely destroyed and dislocated battleground of the war \* \* \*. All of the public buildings in Manila and a majority of the public buildings in the Provinces, including hundreds of schoolhouses, were in ruins. Manila itself was more than 80 percent destroyed.

'Of the major industrial equipment of the Philippines, only a bare remnant was intact. Not a single coconut-oil mill was operable. Cordage factories were all in ruins. Of the 41 sugar mills in operation before the war, only 5 were in anything resembling operating condition. Communications--the Government telegraph and radio systems and the public posts--were no more."

The war's severe disruption of the island's commerce, trade, and political institutions complicated the transition to independence and precluded a fair assessment of the post-independence developments. The rehabilitation years were further complicated because the country's transportation system had been annihilated and could not meet distribution needs.

Many were concerned about the country's future. Not wishing to withhold independence until more favorable economic circumstances developed, the Congress assisted rebuilding efforts. For example, in 1946 a Philippine Rehabilitation Act provided not more than \$100 million worth of property, compensation totaling \$400 million, and authorized \$120 million by 1950 for restoring public property and essential services.

POSTINDEPENDENCE ECONOMIC PROBLEMS  
PROMPTED EXTENSIONS OF TRADE  
PREFERENCES

Because of the island's weak postwar economy, extensions were granted to the original provisions of the 1934 Independence Act as amended. The 1946 Philippine Trade Act continued duty-free exchange for 8 years. Then on July 4, 1954, 5 percent of ordinary customs duties was fixed on certain goods entering each country. These rates would be annually increased 5 percent until they reached 100 percent by July 1974. Gradually declining quotas were also set during the period 1946 to July 3, 1974.

Other agreements were stipulated. United States businesses and citizens were entitled to the same privileges as Filipinos in developing public lands and natural resources and in operating public utilities. The currency exchange rate could not be changed without Presidential concurrence, and U.S. immigration quotas into the Philippines were established. Filipino citizens who resided in the United States 3 years continuously prior to November 30, 1941, could return to the United States before July 3, 1951. Revenues derived from duties or taxes on Philippine products after July 3, 1946, were to be remitted into the U.S. Treasury.

Other postindependence modifications followed to accommodate military interests and economic fluctuations. The United States negotiated with the Philippines to lease military bases in the islands. In 1955, a major revision to the 1946 Philippine Trade Act was passed which generally accelerated the rate toward full Philippine tariffs on U.S. exports while slowing down the U.S. tariff rate levied upon Philippine exports. This revised tariff schedule and other quota and tax modifications were to be implemented until the full imposition of tariffs by July 1974. Also, through this act the United States authorized a reciprocal arrangement for citizens of either country to engage in business activities.

CONCLUSIONS

In adhering to the Filipinos' wishes, the Congress demonstrated its willingness to recognize a status other than statehood. Through independence, the Filipinos gained the political autonomy and control over their own affairs that they had sought for decades.

The Philippines struggle for freedom began during Spanish control in the late 19th century. When the United States acquired the islands in 1898, this quest for independence

continued, but the Congress concluded that the Philippines were not yet prepared to sustain an independent government. Greater measures of self-government were gradually introduced, and joint U.S.-Philippine efforts were made to improve social and economic conditions.

As with statehood admissions, the Congress proved flexible. A transitional 10-year Commonwealth government was formed to prepare the islands for independence, and arrangements were made to gradually reduce U.S.-Philippine economic ties. However, the unforeseen consequences of World War II necessitated a revision of the postindependence arrangements. Accordingly, special trade preferences were extended and rehabilitation assistance provided to help offset the war's disruptive influence.

## CHAPTER 6

### TERRITORIAL DEVELOPMENTS CONTINUE

The past patterns of political and economic evolution continue. The current territories have all gradually attained greater self-governing authority. Financial interaction among the territories, the Federal Government, and U.S. businesses has also increased.

Despite strong ties, differences between territories and States exist. For example, territorial residents cannot vote in national elections, elect voting members to the Congress, or participate fully in all Federal programs. Such differences and the desire to attain greater self-governing authority spur continuing reassessment of the territories' status options. Special attention has been focused on Puerto Rico's ongoing debate over commonwealth, statehood, or independence.

#### PUERTO RICO'S PURSUIT OF POLITICAL RIGHTS BEGAN UNDER SPANISH RULE

Gradually, Puerto Rico has attained powers similar to States and is foremost among all territories in gaining self-governing rights. It has steadfastly pursued increased control over internal affairs and political equality since the latter stages of Spanish dominion.

Originally discovered by Columbus in 1493, Puerto Rico remained under Spanish control from the early 1500s until the 1898 Spanish-American War. During the 16th through 18th centuries, as in the Philippines, governing powers rested with a Governor-General, appointed by Spain, who also exercised great control over social matters. Opportunities for political expression and a voice in government were extremely limited.

In the 1800s, however, an attitude of revolution and reform prevalent throughout the Spanish empire, a rapid rise in Puerto Rico's population, and an increasing awareness of Native culture and identity fostered movements for increased political autonomy. Although granted some limited political rights, such as Spanish citizenship and representation in the Spanish Parliament, Puerto Rico continued a prolonged struggle to gain greater self-governing measures.

Eventually, the island obtained greater participation in managing its own affairs through the Charter of 1897, which established two local governing bodies--the Chamber of Representatives and the Council of Administration. Puerto Rico elected all Chamber members and 8 of the 15 Council members.

These coequal houses, known as the insular parliament, had powers over local matters not specifically reserved by Spain. Cabinet secretaries were chosen from the Council or the Chamber by the Governor-General and were responsible to the insular parliament. Although his powers were reduced, the appointed Governor-General kept control of the military. He was also empowered to name seven Council members, suspend certain civil rights, and refer legislation to Spain if he saw it as detrimental or unconstitutional. In addition, Islanders could elect delegates with full voting rights to the Spanish Parliament. The Charter could not be amended except by law and upon petition of the insular parliament.

Because it was short lived, the Charter's practical application was never tested. The Spanish-American War began before the island legislature's first meeting on July 17, 1898. Eight days after the meeting American troops arrived, beginning a 2-year military occupation.

#### SPANISH-AMERICAN WAR BROUGHT U.S. SOVEREIGNTY

Following the War's conclusion, Puerto Rico was ceded to the United States through the December 1898 Treaty of Peace. Initially, U.S. military governors attempted to improve social conditions and provided a temporary government for the approximately 1 million Islanders. Economic development was hampered because tariffs on Puerto Rican goods continued. Two commissions, appointed to formulate U.S. policy, concluded that most Islanders were willing to be associated with the United States and that a civil government be instituted. According to the treaty, however, decisions on the Islanders' civil rights and political status rested with the Congress.

The Congress passed Puerto Rico's first Organic Act on April 12, 1900, terminating the military administration and establishing a civil government with executive, legislative, and judicial branches, effective May 1, 1900. Known as the Foraker Act, this legislation vested executive authority primarily in a presidentially appointed Governor and 11-member Executive Council, with six members holding high administrative positions. While all Council positions were appointed by the President, at least five Council members were required to be Puerto Ricans.

This Council and the House of Delegates, a 35-member locally elected body, constituted the island's Legislative Assembly, which could pass laws on "all matters of a legislative character not locally inapplicable." Like in other

territories, however, the Congress could annul any local law--a right held but never exercised for Puerto Rico.

The judicial system consisted of a presidentially appointed Supreme Court and a district court selected by the Governor. This judicial structure had jurisdiction over local matters and was the same as the one established by the military already in operation. A U.S. District Court also was established to hear Federal cases in English.

The Organic Act also established the basis for certain political and financial ties with the Federal Government. All U.S. laws not locally inapplicable were to apply equally to Puerto Rico. For example, Federal internal revenue laws were not extended to the island. Island residents were deemed citizens of Puerto Rico and under U.S. protection. Also, U.S. currency was to be official legal tender.

A Resident Commissioner was to serve as an official representative to the United States. The first commissioner was elected in November 1900 but was not permitted on the House of Representatives floor until June 1902. In February 1904, he was granted the same powers as delegates from other territories. The Resident Commissioner could speak in committee or on the floor but was not allowed to vote in committee until 1970.

To provide government revenue, the Organic Act specified that most goods imported into Puerto Rico were subject to full U.S. tariffs and the proceeds remitted to the island. Also, temporary duties and taxes on goods shipped between Puerto Rico and the United States would be returned to the Puerto Rican treasury. These temporary levies were to be discontinued no later than March 1, 1902. By then, the Puerto Rican legislature was to have enacted a complete taxation system, and merchandise shipped between Puerto Rico and the States would be free from U.S. tariffs.

Because these temporary levies were different from the free trade arrangements between the States, the issue prompted much controversy. The measure of self-government to be given, the Islanders' legal status, and the extension of the U.S. Constitution were also highly debated topics. Discussion over these issues did not cease after the Organic Act was enacted because debates resumed in the courts.

U.S. SUPREME COURT DECIDED PUERTO  
RICO WAS NOT AN INCORPORATED  
TERRITORY

In the beginning of the 20th century the United States Supreme Court decided the Insular cases. In the principal case involving Puerto Rico, the Court had to determine if the Organic Act provision imposing temporary duties on Puerto Rican exports conflicted with the U.S. Constitution's Uniformity Clause which required that "\* \* \* all Duties, Imposts and Excises shall be Uniform throughout the United States."

In sustaining the Organic Act provision, the doctrine of territorial incorporation was formulated. The doctrine provided that if a territory were incorporated, all parts of the United States Constitution were applicable, however, if unincorporated, only the fundamental parts applied. Since the Treaty of Peace, unlike all previous territorial acts, did not contain provisions for incorporation, Puerto Rico was not incorporated and thus the Congress was not bound by the Uniformity Clause.

It is questionable whether the rationale behind the Insular cases would be currently applicable. Further discussion of the distinction between incorporated and unincorporated status and the applicable constitutional provisions is contained in appendix IV, "Synopsis of the History of Puerto Rico's Status in United States courts."

1917 ORGANIC ACT INCLUDED U.S.  
CITIZENSHIP AND LOCALLY ELECTED  
LEGISLATURE

Many Puerto Ricans voiced disapproval with the first Organic Act because they believed it did not provide as much autonomy as the 1897 Spanish Charter. Consequently, they pressed for greater self-government, such as a totally elected legislature. After sustained attempts (delayed by World War I), some revisions were granted in March 1917.

This new Organic Act, known as the Jones Act, marked a major step toward home rule. It included a bill of rights and authorized a popularly elected 19-member Senate as a coequal companion to the 39-member House. The Executive Council was divested of its legislative role, and most of its members were to be appointed by the Governor, rather than presidentially appointed. Puerto Rican Supreme Court justices, the Governor, and several council members, however, continued to be appointed by the President. Although granting more self-governing powers, the Congress retained the right to nullify any local law. Also, the Governor could refer

legislation to the President for final disposition if the Governor's veto was overridden. This procedure was exercised only three times, all in the 1940s.

The Jones Act also extended U.S. citizenship to Puerto Ricans who desired it. This citizenship bond combined with a common market, currency, and defense has fostered strong ties between Puerto Rico and the States. Like the original act, however, the Jones Act did not solve the island's ultimate status. In 1922 the U.S. Supreme Court reaffirmed that these revisions did not incorporate Puerto Rico into the Union. Although recognizing that citizenship was an important factor, the Court stated that incorporation relied upon a clear and deliberate action by the Congress.

AN ELECTED GOVERNOR--ANOTHER STEP  
TOWARD GREATER SELF-GOVERNMENT IN  
1947

While the new Organic Act provided a fully elective legislature, questions concerning the island's ultimate status remained and requests for increased autonomy continued. For example, Puerto Ricans argued that, although they were U.S. citizens subject to the military draft, their participation in national affairs was limited.

In 1947 Puerto Rico was authorized to select its own governor. This legislation also enabled him to appoint executive officials. However, like all its predecessors, the act did not determine the island's final status, and the Congress retained the power to annul legislation.

GREATER HOME RULE--CONSTITUTION  
ESTABLISHED AND COMMONWEALTH FORMED

Dissatisfaction with this remaining Federal jurisdiction propelled movements for increased control over internal matters. In 1950, the Congress authorized Puerto Rico to organize a constitutional government. This legislation specified that the constitution was to be republican in nature and include a bill of rights. After the populace approved the law, a constitutional convention was held. Following congressional and local approval the constitution became effective on July 25, 1952.

With the constitution in effect, certain sections of the Organic Act were repealed, and Federal responsibility in purely local matters terminated. Thus, like States, local executive, legislative, and judicial authority rests with Puerto Rico. The remaining sections of the Organic Act

became the Puerto Rican Federal Relations Act, which, as amended, defines the present U.S.-Puerto Rican relationship.

Among other provisions this act continues Puerto Rico's exemption from certain U.S. internal revenue laws. Excise taxes on Puerto Rican goods domestically produced and transported to the United States are returned to the island treasury, as are U.S. tariffs on foreign goods imported into the island. Provisions for U.S. citizenship and free trade between Puerto Rico and the States are maintained. Puerto Rico has control of all public lands and buildings, highways, harbor areas, streams and submerged lands not reserved for Federal Government purposes. A Resident Commissioner continues to represent island residents in the U.S. House of Representatives. Also detailed are the applicability of Federal laws and the Federal District Court's jurisdiction. In 1961, the Congress amended the Judicial Code so Commonwealth Supreme Court decisions would be reviewed only by the U.S. Supreme Court. This eliminated intermediate review by the United States Court of Appeals for the First Circuit.

#### VARYING CONCEPTS OF COMMONWEALTH

Although the Commonwealth was recognized as a further step toward self-government, different interpretations regarding the island's relationship with the Federal Government have surfaced. Prior to the 1952 Commonwealth, Puerto Rico was considered an unincorporated territory. Since then, the question of whether Puerto Rico's status has changed has been the subject of much analysis and debate. Some believe that the Commonwealth is a new entity and no longer a territory within the meaning of the territorial clause of the U.S. Constitution. While others consider the status another type of unincorporated territory short of statehood, many contend that Puerto Rico's political and legal status was changed little.

Congressional committee reports disclosed that Commonwealth provided more self-government but would not "preclude a future determination by the Congress of Puerto Rico's ultimate political status and "\* \* \* would not change Puerto Rico's fundamental political, social, and economic relationship to the United States." This political arrangement, however, is not as clear as the traditional state or territory relationship with the United States. Consequently, the precise legal definition of Commonwealth has not been determined. The 1966 report by the Commission on the Status of Puerto Rico noted that this unclear legal relationship is not a unique situation.

"In short, a Federal relationship--whether it be commonwealth or statehood--is never

completely clear. Rather there is a necessary and desirable obscure fringe area which permits many legal, political, and practical adjustments to take place. It is true that Commonwealth has many areas of uncertainty because it is novel. But it is also true that commonwealth like statehood has many areas of uncertainty because of the nature of a Federal relationship."

The U.S. Supreme Court has not considered directly Puerto Rico's status since 1922. The issue has been discussed in lower Federal courts and the Puerto Rico Supreme Court, but these rulings did not clarify the broad status issue. Further discussion of U.S. court cases dealing with Puerto Rico's status is contained in appendix IV.

POST-COMMONWEALTH ERA: ATTEMPTED  
REVISIONS AND ONGOING DEBATES

Debates over the island's status did not diminish after the Commonwealth was established. Statehood, independence, and amended Commonwealth proposals were introduced in the Congress and the Puerto Rican legislature. One proposal led to a 1964 joint U.S.-Puerto Rico Commission, which studied the future Federal-Puerto Rican relationship. Extensive public hearings were held on legal, economic, and cultural issues relating to the three status alternatives. In its 1966 report, the Commission concluded that

"\* \* \* all three forms of political status-- Commonwealth, Statehood, and Independence--are valid and confer upon the people of Puerto Rico equal dignity with equality of status and of national citizenship."

Noting that the initiative should come from the people, the Commission stated that a status referendum would be helpful and recommended that advisory bodies be established to consider transitional measures to any new status.

Subsequently, a 1967 plebiscite disclosed that 60.41 percent favored Commonwealth, 38.98 percent, statehood, and 0.60 percent, independence. However, alleged boycotts by independence and statehood advocates resulted in a lower than normal voter turnout (66 percent versus the usual more than 80 percent response).

In 1970, an advisory group, appointed by the President and the Governor of Puerto Rico, studied extending the right to vote in presidential elections to Islanders. It concluded that such enfranchisement was not incompatible with

Commonwealth status because of common citizenship. Although the group recommended that the vote be granted if residents chose so in referendum, no action has been taken.

Another advisory group, appointed in 1973, explored other ways of developing Commonwealth status and recommended that Puerto Rico be able to

- participate in international organizations and make agreements with foreign countries consistent with U.S. policy;
- set immigration quotas, tariffs on goods imported from foreign countries, minimum wage rates, and environmental protection regulations;
- have representation in the U.S. Senate;
- protest certain Federal legislation and that such objections must be acted upon by the Congress; and
- establish a Commission to review all Federal laws for the possible transfer of Federal functions to the island and the desirability of instituting tax payments to the U.S. Treasury.

These features were embodied in the "Compact of Permanent Union Between Puerto Rico and the United States," a bill introduced in the Congress in 1975. After several hearings and amendments, the bill died in committee.

Other initiatives included a statehood proposal, made by President Ford on December 31, 1976. The proposed legislation called for hearings and studies on statehood's effects, a statehood plebiscite, and a constitutional convention.

While amended Commonwealth, statehood, and independence proposals have been made, no direct vote on the status issue by the Puerto Rican people has been held since 1967. The general election results since 1952 are shown below; however, these do not necessarily reflect support for each status alternative since other issues, such as economic conditions, were involved in the campaigns.

	Party(ies) favoring <u>Commonwealth</u>	Party(ies) favoring <u>statehood</u>	Party(ies) favoring <u>independence</u>
	------(percent)-----		
1952	64.8	12.9	19.0
1956	62.5	25.0	12.0
1960	62.4	34.3	3.3
1964	59.4	34.6	2.7
1968	51.8	45.2	3.0
1972	51.0	45.5	4.5
1976	45.3	48.3	6.4

To obtain the electorate's views, a plebiscite may be held in 1981. President Carter has pledged to support whatever status the Puerto Rican people select and encourage the Congress to accept their decision. In August 1979, the Congress approved a resolution reaffirming Puerto Rico's right to self-determination.

The Puerto Rican status question has also been under United Nations consideration. Since its inception in 1946, the United Nations has monitored the political evolution of all non-self-governing territories. Because the United States voluntarily placed Puerto Rico and others in this category, annual information on their political developments was required. With the establishment of the Commonwealth, however, the United Nations removed Puerto Rico's non-self-governing designation in 1953 and announced that

"\* \* \* in the framework of their Constitution and of the compact agreed upon with the United States of America, the people of the Commonwealth of Puerto Rico have been vested with attributes of political sovereignty which clearly identify the status of self-government attained by the Puerto Rican people as that of an autonomous political entity."

Recently, the question of Puerto Rico's status has generated special interest. In September 1978 and reaffirmed a year later, the United Nations Decolonization Committee approved a resolution which asserted that all powers be transferred to the Puerto Rican people before measures to change their status are considered. The United States, however, has not recognized the Committee's jurisdiction since Puerto Rico's removal from the non-self-governing list; it has stated, though, that it would not object to Puerto Rico inviting the United Nations to observe any status referendum.

OTHER TERRITORIES ALSO MOVE TOWARD  
GREATER SELF-GOVERNMENT

In attaining greater self-governing powers, the other U.S. territories have followed courses similar to Puerto Rico's, as shown below. For example, Guam and the Virgin Islands were recently permitted to draft their own constitutions. In 1977, American Samoa elected its first governor, and the Northern Marianas obtained U.S. approval in 1976 to become a Commonwealth.

Trends in Self-Government

	<u>Guam</u>	<u>Puerto Rico</u>	<u>American Samoa</u>	<u>The Virgin Islands</u>	<u>Trust Territory of the Pacific Islands</u>	<u>Northern Mariana Islands</u>
Became part of the United States	1898	1898	a/1900	1917	(c)	1947
First Organic Act passed	1950	1900	b/1929	1936	(c)	None
Received nonvoting delegate in U.S. House of Representatives	1972	1900	1960 (to be elected)	1972	-	(d)
Elected first legislature	1950	1900 (Lower House) 1917 (Upper House)	e/1960	1936	(c)	(d)
Granted U.S. citizenship	1950	1917	f/Residents are nationals but not citizens	1927	-	(d)
Elected first governor	1970	1948	e/1977	1970	(c)	(d)
Granted constitution	(g)	1952	e/1960	(d)	(c)	(d)

a/An international agreement with Germany and England assigned American Samoa to the United States in 1899. The Samoan Chiefs ceded their islands to the United States in acts of cession dated 1900 and 1904.

b/The Congress approved the Samoan acts of cession in 1929 and authorized the executive branch to administer the islands temporarily. From 1900 to 1951 such authority rested with the U.S. Navy. From 1951 to the present the Secretary of the Interior holds administrative jurisdiction.

c/Although not a United States territory, the Trust Territory was entrusted to the United States in 1947 to carry out its rehabilitation following World War II. Four political entities are evolving. Each has, or will have, its own legislature, choose its own chief executive, and establish its own constitution and judiciary.

d/The Northern Mariana Islands remains part of the Trust Territory until the trusteeship agreement is terminated. Currently, residents elect their governor, and legislature and have a locally approved constitution. A nonvoting House delegate was not accorded but a resident representative serves as liaison with the Federal Government.

e/Prior to 1960 American Samoa's legislature was advisory. In the absence of an organic act, the Secretary of Interior possesses broad authority. He approved the Constitution in 1960 and an elected governor in 1977, while retaining the right to repeal local legislation.

f/A national is defined as a person who is either a citizen or noncitizen of the United States, owing permanent allegiance to the United States.

g/In 1976, the Congress authorized Guam and the Virgin Islands to draft their own constitution. The Virgin Islands and Guam rejected proposed constitutions in 1979 referendums.

Like Puerto Rico, the other territories have continually pursued greater self-government. Originally administered by the military and then by U.S. civilian appointees, territories now elect their own governor and legislatures. Through legislation and Federal directives, almost all local government authority--executive, legislative, and judicial--has been transferred to the territories. Most territorial residents are U.S. citizens and send nonvoting delegates to the House of Representatives.

Although the other territories have attained greater self-government, they do not possess the same degree of autonomy as Puerto Rico. For example, they are under the administrative oversight of the Department of the Interior, Office of Territorial Affairs, which monitors their social, political, and economic conditions. Its other functions include assisting territorial budget justifications and appointing comptrollers.

The United States has an international responsibility for self-determination and political development in the territories. Like Puerto Rico, these territories could pursue statehood, independence, commonwealth, or other options. As part of the territories' evolution toward greater self-government, various commissions have been established to consider status alternatives. Because their final status has not been determined, reassessment of their relationships with the Federal Government will continue.

#### GROWING FINANCIAL TIES: TERRITORIES AND THE REMAINDER OF THE UNITED STATES

Financial relationships between the territories and the remainder of the United States have grown. Increasing business investments, trade, and Federal aid have integrated the territorial and State economies.

#### Increased business investments and trade

Trade between the territories and States has accelerated in the last 30 years, as total imports and exports increased from \$0.5 billion in the late 1940s to \$10.5 billion in 1977. Puerto Rico, which sells and purchases most of its goods in mainland markets, accounts for most of this trade. Much of its exports--pharmaceuticals, petroleum products, electrical machinery and transport equipment--are produced by U.S.-mainland-based businesses located on the island. Over half, or \$3.7 billion, of Puerto Rico's imports come from the States.

These trade and business ties have been attributed to Puerto Rico's industrialization. In 1948 the island initiated a development program called "Operation Bootstrap" to promote economic growth by shifting from an agrarian to an industrial-based economy. The primary attraction was an industrial tax-exempt policy designed to amplify the effect of an existing Federal tax exemption, thereby creating a totally tax-free environment for many mainland-based businesses. These incentives, increased promotion efforts, low labor costs, and other factors helped attract the 528 tax-exempt mainland-based businesses operating in Puerto Rico during 1976.

The Virgin Islands is second to Puerto Rico in goods exported to the States. A total of \$2.5 billion, mostly petroleum products, were sold to the United States in 1977. As in Puerto Rico's case, this trade can be traced to an industrialization program given impetus by local and Federal tax arrangements. The Federal Government returns much of custom receipts generated by goods imported to the Virgin Islands. The territory then rebates the proceeds to the appropriate companies.

American Samoan trade with the States, primarily in the fish processing industry, has also increased substantially. Sparked by tariff and other advantages, Samoan exports have risen from an annual average of \$1.1 million during the 1950s to \$81.2 million in 1977.

Although Guam and the Marianas account for less than 1 percent of total trade between the territories and the States, other factors promote strong ties. Guam's largest economic sector, U.S. military expenditures, constituted 62 percent of the island's 1972 gross product. The Northern Marianas and Trust Territory derive their gross product partly from Federal aid.

#### Federal assistance to the territories increasing

As shown on the next page, since 1970, Federal outlays to the territories have registered a four-fold increase, with Puerto Rico receiving the bulk of these funds. Federal grants to territorial governments and individuals have grown and reflect, in part, the nationwide increase in such aid.

Moreover, the territories have become eligible for more funds as legislative restrictions and ceilings have been removed. For example, in 1971, residents of Puerto Rico, Guam, and the Virgin Islands were authorized to receive Food

Stamps. In 1978, the Northern Marianas were included in the Supplemental Security Income program.

Despite this trend, the territories are still excluded from certain Federal programs. For example, they do not participate in the Federal Revenue Sharing program and receive limited funding for Aid to Families with Dependent Children and Medicaid.

Growth in Federal Outlays (note a)

	<u>1970</u>	<u>1978</u>
	(millions)	
Puerto Rico	\$ 767.2	\$3,242.6
Virgin Islands	60.7	593.5
Guam	142.2	424.3
Trust Territory (including Northern Mariana Islands)	88.6	228.6
American Samoa	<u>22.5</u>	<u>40.3</u>
Total	<u>\$1,081.2</u>	<u>\$4,529.3</u>

a/In the case of Social Security and Unemployment Compensation, territorial residents make offsetting contributions not reflected in these figures.

Aid is provided in other forms. For example, Puerto Rico receives Federal excise taxes on certain exports to the States. Also, for the most part, permanent territorial residents in effect, do not pay Federal taxes.

Federal monies are a substantial part of the territories' economies. For example, Federal aid to the governments and individuals as a percentage of fiscal year 1977 gross product ranged from 23 percent in the Virgin Islands to about 100 percent in the Trust Territory. Federal monies to the territorial governments, in part, allow for higher public sector employment. Local governments are the major employer in all the territories, ranging from about 23 percent of wage earners in Puerto Rico to about 45 percent in American Samoa. Comparatively, State and local governments accounted for 16 percent of all employment in the States.

## Territorial economies studied

The territories' economic development has been the subject of many studies. The most extensive is a presidentially commissioned interagency study detailing Puerto Rico's economy and finances. Headed by the U.S. Department of Commerce, this report provides a macroeconomic analysis and various economic sector studies and discusses the impact of Federal programs and policies. The White House is undertaking another interagency study. Led by the Department of Interior, this study is examining the impact of Federal aid to all the territories, except Puerto Rico, and considering some policy options available to the Federal Government.

## CONCLUSIONS

Current U.S. territories continue the historic patterns of political and financial development. Following Puerto Rico, the territories have all gradually attained greater measures of self-government and participation in national legislation. Also, stronger financial ties with the remainder of the United States have been forged through increased trade exchanges, investment activity, and Federal aid.

Although ties, such as common citizenship, have developed, the territories' future status remains open. Since the United States is committed to self-determination, past trends will most likely continue. The foremost example is Puerto Rico's status debate over Commonwealth, statehood, or independence.

Although these status options are aimed at providing greater political rights, they may involve financial consequences. Historically, financial matters have been considered by the Congress during status deliberations and used to determine the need for transitional measures. Fiscal ties have grown, but financial relationships different from Federal-State arrangements, such as Federal tax exemptions, have developed.

## CHAPTER 7

### SCOPE OF REVIEW

Anticipating a status decision and citing a lack of comprehensive information, Senator Johnston of Louisiana and Resident Commissioner Corrada of Puerto Rico requested that we examine what a status change would entail, so that the Congress and Puerto Rico would have data prior to a status determination. Discussions with the requesters and congressional committee offices and others revealed a need to study prior statehood and independence transitions. This report provides highlights of these past territorial conversions.

Major patterns in statehood admission procedures, requirements, and provisions for land and other grants, were extracted from legislation and other research materials. Because they are the latest States to be admitted, Alaska and Hawaii's evolution from territory to statehood are detailed. For these States we examined congressional documents, literature from State Archives, and other information, and interviewed a variety of persons including former Governors, Statehood Commission members, State officials, and business and academic researchers. Legislation, congressional documents, and other materials provided information on the Philippine Islands' transition to an independent nation.

Past political and financial patterns continue as the current territories reassess their status. Accordingly, we reviewed their progression toward greater self-government and participation in national legislation and increasing financial ties with the remainder of the United States.

### COMMENTS ON REPORT

This report was provided to the Federal Departments of State and the Interior, the Assistant to the President for Domestic Policy, and the Governor of the Commonwealth of Puerto Rico for their review and comment. Generally, they said the report comprises a useful compendium of U.S. territorial history which will assist Puerto Rico status deliberations. Letters from the Department of the Interior and the Commonwealth of Puerto Rico are included as appendices V and VI.

LOCATION OF CURRENT TERRITORIES

American Samoa - American Samoa is located about 2,200 miles southwest of Hawaii and about 1,600 miles northeast of New Zealand. With a population of about 29,000, it is composed of seven tropical islands. The total land area is 83 square miles.

Guam - Guam is situated in the western Pacific, about 6,000 miles southwest of San Francisco and 1,500 miles east of Manila. The island is 30 miles long, and its width varies from 4 to 8-1/2 miles. Approximately 100,000 people inhabit the island.

Puerto Rico - Puerto Rico, with a land area of 3,497 square miles is about 39 miles wide and 109 miles long. The island is located 885 miles southeast of the southern coast of Florida, and has 3.3 million residents.

Trust Territory of the Pacific Islands - Comprises three groups of islands--the Carolines, Marianas, and Marshalls--which stretch 2,400 miles from some 400 miles east of the Philippines. This includes 2,000 islands, of which about 100 are inhabited (about 107,000 population), covering less than 700 square miles of land and approximately 3 million square miles of ocean.

Virgin Islands - This group of islands lies about 34 miles east of Puerto Rico. With a population of about 63,000 the islands have a combined land area of 133 square miles.

SYNOPSIS OF THE HISTORY OF PUERTO RICO'S  
STATUS IN UNITED STATES COURTS

Prior to attaining Commonwealth status in 1952, Puerto Rico was considered an unincorporated territory. Since that time there has been much debate, study, and speculation on whether Puerto Rico's status has changed. Although the United States Supreme Court has not considered directly the status of the Commonwealth of Puerto Rico, that issue has been discussed in several lower Federal courts. The precise legal definition of the term "Commonwealth," however, has not been determined.

PRE-COMMONWEALTH LEGAL STATUS  
DEPENDENT ON INSULAR CASES

In the early 20th century, the United States Supreme Court addressed the judicial status of territories in a group of decisions known as the Insular Cases. These decisions considered primarily the status of Puerto Rico and the Philippines acquired by the United States from Spain in the 1898 Treaty of Peace.

In Downes v. Bidwell, 182 U.S. 244, 287 (1901) the Court was faced with the immediate issue of whether merchandise brought into New York from Puerto Rico was subject to the payment of duties, as prescribed by Puerto Rico's First Organic Act, 31 Stat. 77, Apr. 12, 1900 (Foraker Act). An answer to that question involved a determination of whether the duties were levied in such a way as to be repugnant to Art. I, §8, cl. 1 (uniformity clause) of the United States Constitution which provides:

"The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States."

That determination depended on whether Puerto Rico was considered an incorporated or unincorporated territory. Prior to the Insular Cases, the question of whether a territory was incorporated rarely arose. The difference between incorporated and unincorporated status, in part, lies in the extent of applicability of the United States Constitution. If a territory is unincorporated, authority

of the Congress over it is plenary, 1/ that is, limited only by the "fundamental parts" of the Constitution. 182 U.S. at 290-91, 340-44. However, if incorporated, then the entire Constitution would be applicable, and the Congress, thereby, would be limited by all the provisions of the Constitution in exercising its authority. Although several cases already had held that the territorial inhabitants enjoyed the protection of personal and civil rights implicit in principles of constitutional liberty, those decisions made no distinction between incorporated and unincorporated territories. Murphy v. Ramsey, 114 U.S. 15, 44-45 (1885); Church of Jesus Christ of Latter Day Saints v. United States, 136 U.S. 1, 44 (1889).

In assessing whether Puerto Rico had been incorporated, Justice White compared the provisions in other territorial acts and that of Puerto Rico. He concluded that

"There has not been a single cession made from the time of the Confederation up to the present day, excluding the recent treaty with Spain which has not contained stipulations to the effect that the United States through Congress would either not disincorporate or would incorporate the ceded territory into the United States." 182 U.S. at 318-19.

Although the Treaty of Peace contained no such provisions, it stated:

"Spain cedes to the United States the Island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and the Island of Guam in the Marianas or Ladrones \* \* \*. The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress." Id. at 339.

---

1/The Congress' authority is exercised both as an incident to its right to acquire territory and on the territorial clause of the Constitution, Art. IV, §3, cl. 2. Dorr v. United States, 195 U.S. 138 (1904). That section provides: "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States \* \* \*."

In Downes, Justice White concluded that the express purpose of the treaty not only was to leave the status of Puerto Rico to be determined subsequently by the Congress, but to prevent the treaty from operating to the contrary. Id. at 339-40. The Court found that since the Congress did not expressly incorporate Puerto Rico, it could establish a government not subject to all the restrictions of the Constitution. Thus, because the Congress was not bound by the uniformity clause, it could impose duties on goods coming into the United States from Puerto Rico. 182 U.S. at 340-42.

Several years after Downes, the Court considered questions involving the status and applicability of the United States Constitution to Hawaii, the Philippines and Alaska. Hawaii v. Mankichi, 190 U.S. 197 (1903); Dorr v. United States, 195 U.S. 138 (1904); Rasmussen v. United States, 197 U.S. 516 (1905). In those cases, the Court found Hawaii and the Philippines to be unincorporated but Alaska to be incorporated.

In Mankichi, Justice White considered whether Hawaii had been incorporated by the Newlands Resolution of 1898, 30 Stat. 750, prior to its being specifically incorporated into the Union by its First Organic Act in 1900. 31 Stat. 141. In finding that the islands were not incorporated by the Newlands Resolution, Justice White, in part, pointed to the following

"By the resolution the islands were annexed, not absolutely, but merely 'as a part of the territory of the United States,' and were simply declared to be subject to its sovereignty. The minutest examination of the resolution fails to disclose any provision declaring that the islands are incorporated and made a part of the United States or endowing them with the rights which would arise from such relation. On the contrary, the resolution repels the conclusion of incorporation. Thus it provided for the government of the islands by a commission, to be appointed by the President until Congress should have opportunity to create the government which would be deemed best." 190 U.S. 219.

On the other hand, the Rasmussen case found Alaska to be incorporated in view of:

- (1) Article 3 of the treaty with Russia which provided that the people of Alaska should enjoy

all the rights, advantages and immunities of citizens of the United States; and should be maintained and protected in the free enjoyment of their liberty, property, and religion.

- (2) the actions of Congress concerning internal revenue taxation and extension of United States laws relating to customs, commerce and navigation over Alaska and establishing a collection district in Alaska; and
- (3) the incorporated status of Alaska was recognized in prior decisions of the Supreme Court. 197 U.S. at 520-25.

Although Mankichi, Dorr and Rasmussen provided little elaboration on what fundamental parts of the Constitution would apply to unincorporated territories, those cases clearly stated that the right to jury trial in Article III, § 2, cl. 3 and Sixth Amendment, and Fifth Amendment right to a grand jury indictment were not such fundamental parts.

The status of Puerto Rico was again considered by the Supreme Court in Balzac v. Puerto Rico, 258 U.S. 298 (1922) several years after the enactment of the Organic Act of 1917, 48 U.S.C. §731 et seq. (Jones Act). That act established a revised civil government for Puerto Rico; provided for a bill of rights including substantially all the guarantees of the United States Constitution other than those relating to indictment by grand jury and right of jury trial in criminal and civil cases; and with minor exceptions provided United States citizenship to Puerto Ricans. The issue presented to the Court was whether a defendant was entitled to a jury trial for a misdemeanor, the Puerto Rican Code providing only for jury trials in felony cases. 258 U.S. at 302.

Although the Court acknowledged that citizenship was an important factor in determining whether a territory was incorporated, it held that the Organic Act of 1917 did not incorporate Puerto Rico into the Union. The Court in Balzac noted that:

"Incorporation has always been a step, and an important one, leading to statehood. Without, in the slightest degree, intimating an opinion as to

the wisdom of such a policy, for that is not our province, it is reasonable to assume that when such a step is taken it will be begun and taken by Congress deliberately and with a clear declaration of purpose, and not left a matter of mere inference or construction." Id. at 311.

#### COMMONWEALTH STATUS

Prior to 1952 there was little question that Puerto Rico was an unincorporated territory. Since the establishment of the Commonwealth, however, the status question has been the subject of fervid public debate and ambiguous and conflicting statements by courts.

Some believe that the Commonwealth is an entirely new entity and that Puerto Rico is no longer a territory within the meaning of the territorial clause of the United States Constitution. See Cosentino v. International Longshoremen's Association, 126 F. Supp. 420, 422 (D.P.R. 1954). Others consider the Commonwealth another type of unincorporated territory, the word "territory" limited to the "constitutional word for an area which is part of the United States and which is not a state." Leibowitz, A. H., The Applicability of Federal Law to the Commonwealth of Puerto Rico, 56 Geo. L.J. 219, 243 (1967). Still others contend that Puerto Rico's status was changed little by forming the Commonwealth. See e.g., Detres v. Lions Building Corp., 234 F. 2d 596, 599-600 (7th Cir. 1956).

One commentator has summed up the complicated status issue as follows: "The advocates of the compact theory argue that Puerto Rico is no longer a territory within Congress' plenary authority under the territorial clause but is a free associated state bound to a compact unilaterally unalterable by either party; those who oppose the compact theory maintain that the events which led to the creation of the Commonwealth were merely an exercise of Congress' authority pursuant to the territorial clause, authority which it never surrendered." Comment, Inventive Statesmanship v. The Territorial Clause: The Constitutionality of Agreements of Limiting Territorial Powers, 60 Va. L. Rev. 1041, 1063-65.

The United States Supreme Court has not directly considered the status of the Commonwealth. However, in a

recent case the Court stated that: "Puerto Rico occupies a relationship to the United States that has no parallel in our history." Examining Board v. Flores de Otero, 426 U.S. 572, 596 (1976). In some instances, Federal appellate courts have suggested that the compact creating the Commonwealth did nothing to change Puerto Rico's status. In one case, the United States Court of Appeals for the Seventh Circuit stated:

"The legislative history of the Act providing for this last change in the government of Puerto Rico shows very definitely that those members of Congress most responsible for its enactment thought that the Act would not change Puerto Rico to some political entity other than a territory. The Senate Report explaining and recommending the passage of this bill, U.S. Code Congressional and Administrative Service, 1950, Volume 2, page 2682, stated:

'It is important that the nature and general scope of S3336 be made absolutely clear. The bill under consideration would not change Puerto Rico's fundamental political, social, and economic relationship to the United States.' (Our emphasis.)

"Again, on page 2683 of the same volume, the Report stated:

'This bill does not commit the Congress \* \* \* to the enactment of statehood legislation for Puerto Rico in the future. Nor will it in any way preclude a future determination by the Congress of Puerto Rico's ultimate political status.' (Our emphasis.)

Decisions of the United States Court of Appeals for the First Circuit also seem to indicate that Puerto Rico's status did not change in 1952 1/. However, the statements made

---

1/Prior to 1961, decisions of the Supreme Court of Puerto Rico were appealed to the United States Court of Appeals for the First Circuit. Since 1961 appeals from the Supreme Court of Puerto Rico when permitted are treated like those of a State and are heard by the United States Supreme Court. 28 U.S.C. § 1258 (1976).

by that court are less clear than those in Detras, supra. Thus, in one case Guerrido v. Alcoa Steamship Co., 234 F.2d 349, 352 (1st Cir. 1956), the court noted that Puerto Rico was neither a State nor a territory which had been incorporated into the Union preliminary to statehood, citing Balzac. Yet, in another instance Judge Magruder, a long-time student of Puerto Rican affairs, stated:

"Puerto Rico has thus not become a State in the Federal Union like the 48 states, but it would seem to have become a State within a common and accepted meaning of the word." Mora v. Mejias, 206 F.2d 377, 387 (1st Cir. 1953).

On the other hand, although the United States Court of Appeals for the Third Circuit found that Puerto Rico's status had changed after 1952, it concluded that Puerto Rico did not exercise the sovereignty of an independent nation.

"There can be no doubt that as a matter of political and legal theory, and practical effect, Puerto Rico enjoys a very different status from that of a totally organized but unincorporated territory, as it formerly was. The government of the Commonwealth derives its powers not alone from the consent of Congress, but also from the consent of the people of Puerto Rico. However, under the terms of the "compact" the people of Puerto Rico, do not exercise the full sovereignty of an independent nation, since they do not have control of their external relations with other nations. Further, as United States citizens the citizens of Puerto Rico are assured that their right to due process of law is protected by the federal Constitution." Americana of Puerto Rico, Inc. v. Kaplus, 368 F.2d 431, 435-36 (3d Cir. 1966), cert. denied, 386 U.S. 943 (1967).

The United States District Court for Puerto Rico has decided a number of cases which peripherally have touched on the status question. That court consistently has found that Puerto Rico's status has changed since the establishment of the Commonwealth. In one case, in purely informal comments on Puerto Rico's status, a judge of that court said:

"I am satisfied that Puerto Rico is no longer a Territory in the sense that the term is used in the Constitution and the cases \* \* \*. [I]f the Congress of the United States proposes in the future to make a statute applicable to Puerto Rico \* \* \* generally speaking, it will have to make it so other than by use of the term 'Territory'." (Cosentino v. International Longshoremen's Ass'n, 126 F. Supp. 420, 422 (D.P.R. 1954))

Several years later, the same court stated:

"It is clear, however, that the compact does exist as a binding agreement, irrevocable unilaterally between the people of Puerto Rico and the Congress of the United States, transforming Puerto Rico's status from territory to commonwealth, or Estado Libre Asociado.

\* \* \* \* \*

"In short, in respect to domestic authority, the status of the Commonwealth essentially parallels that of the states." United States v. Valentine, 288 F. Supp. 957, 981 (D.P.R. 1968).

#### APPLICABILITY OF THE UNITED STATES CONSTITUTION

The extent to which the provisions of the United States Constitution were applicable to Puerto Rico both as an unincorporated territory and a Commonwealth has been considered in some cases. The determinations made by courts, however, with few exceptions have been vague.

#### Pre-Commonwealth Era

In Downes v. Bidwell, supra, the Court found that the uniformity clause was not one of the fundamental parts of the United States Constitution which would apply to Puerto Rico as an unincorporated territory. Although the Court did not establish a listing of provisions which are fundamental or nonfundamental, Justice White did provide a general outline on what constitutional provisions might be applicable.

"\* \* \* it does not follow that there may not be inherent, although unexpressed, principles which are the basis of all free government which cannot be with impunity transcended. But this does not suggest that every express limitation of the Constitution which is applicable has not force, but only signifies that even in cases where there is no direct command of the Constitution which applies, there may nevertheless be restrictions of so fundamental a nature that they cannot be transgressed, although not expressed in so many words in the Constitution.

"Albeit, as a general rule, the status of a particular territory has to be taken in view when the applicability of any provision of the Constitution is questioned, it does not follow when the Constitution has absolutely withheld from the government all power on a given subject, that such an inquiry is necessary. Undoubtedly, there are general prohibitions in the Constitution in favor of the liberty and property of the citizen which are not mere regulations as to the form and manner in which a conceded power may be exercised, but which are an absolute denial of all authority under any circumstances or conditions to do particular acts. In the nature of things, limitations of this character cannot be under any circumstances transcended, because of the complete absence of power." 182 U.S. at 291, 294-95

In another opinion Justice Brown provided additional guidance:

"We suggest, without intending to decide, that there might be a distinction between certain natural rights, enforced in the Constitution by prohibitions against interference with them, and what may be termed artificial or remedial rights, which are peculiar to our own system of jurisprudence. Of the former class are the rights to one's own religious opinion and to a public expression of them, or as sometimes said, to worship God according to the dictates of one's own conscience; the right to personal liberty and individual property; to freedom of speech

and of the press; to free access to courts of justice, to due process of law and to an equal protection of the laws; to immunities from unreasonable searches and seizures, as well as cruel and unusual punishment; and to such other immunities as are indispensable to a free government. Of the latter class are the rights to citizenship, to suffrage, Minor v. Happersett, 21 Wall. 162, and to the particular methods of procedure pointed out in the Constitution, which are peculiar to Anglo-Saxon jurisprudence, and some of which have already been held by the States to be unnecessary to the proper protection of individuals."

"Whatever may be finally decided by the American people as to the status of these islands and their inhabitants--whether they shall be introduced into the sisterhood of States or be permitted to form independent governments--it does not follow that, in the meantime, awaiting that decision, the people are in the matter of personal rights unprotected by the provisions of our Constitution, and subject to the merely arbitrary control of Congress. Even if regarded as aliens, they are entitled under the principles of the Constitution to be protected in life, liberty and property." 182 U.S. at 282-83."

Following this Insular decision, other cases further defined which parts of the Constitution were or were not applicable to Puerto Rico as an unincorporated territory. A factor which might have contributed to courts rarely expounding on which rights and protections in the United States Bill of Rights applied was the enumeration of substantially the same rights, with the exception of the grand and petit jury trial provisions in Puerto Rico's revised Organic Act of 1917.

During the pre-Commonwealth era, only the Sixth Amendment right of trial by jury, Balzac v. Puerto Rico, 258 U.S. 298 (1922), Fifth Amendment protection of grand jury indictment, Puerto Rico v. Tapia, 245 U.S. 639 (1918), the Commerce Clause (Art. 1, §8, cl. 3), and prohibition against the imposition of duties or imposts on imports (Art. 1, §10, cl.2), Euscaglia v. Ballester, 162 F.2d 805, 806-07 (1st Cir. 1947), cert. denied 332 U.S. 816, and the Uniformity Clause (Art. 1, §8, cl. 1), Downes v. Bidwell, 182 U.S. at 342, specifically

were held inapplicable to Puerto Rico. Other protections which appeared not to apply were the Seventh Amendment right to trial by jury in civil suits, Puerto Rico v. Shell Co. Ltd., 302 U.S. 253, 258 (1937) and the Fifth Amendment protection against double jeopardy, Grafton v. United States, 206 U.S. 333, 345, 354-55 (1907).

Also, during this period the only constitutional provision judicially 1/ found applicable to Puerto Rico were due process, Balzac v. Puerto Rico, 258 U.S. 298, 312-313 (1922), and the 18th Amendment prohibition, 2/ Ramos v. United States, 12 F.2d 761, 762 (1st Cir. 1926). Other parts of the Constitution which, in all likelihood, were applicable to pre-Commonwealth Puerto Rico were the right to habeas corpus, Eisentrager v. Forrestal, 174 F.2d 961, 965 (D.C. Cir 1949), rev'd on other grounds sub. nom. Johnson v. Eisentrager, 339 U.S. 763 (1950) and the Fifth Amendment right to just compensation, Mitchell v. Harmony, 54 U.S. (13 How.) 115, 133 (1852).

#### Post-Commonwealth Period

With the formation of the Commonwealth, the privileges and immunities clause of Article IV, §2, cl. 1 of the United States Constitution continued to be applicable through the Federal Relations Act 3/ Pub. L. No. 600, §4, July 3, 1950. That clause provides: "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." Although some courts have urged that Puerto Ricans as American citizens should be afforded greater United

---

1/In 1947, the privileges and immunities clause of Article IV, §2, cl. 1 of the United States Constitution was made applicable by an amendment to the Jones Act, "as though Puerto Rico were a state of the Union." Pub. L. No. 362, §7, Aug. 5, 1947, 61 Stat. 772-73.

2/Presumably, the 21st Amendment (repeal of prohibition) was also applicable.

3/This provision was the only section of the Jones Act Bill of Rights which was not repealed by Pub. L. No. 600, Act of July 3, 1950, 64 Stat. 319.

States constitutional protection, the rights of American citizens guaranteed by the privileges and immunities clause are not extensive. See Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 79-80 (1873) 1/.

In Torres v. Puerto Rico, 61 L. Ed. 2d 1 (1979) the United States Supreme Court held that the Fourth Amendment to the United States Constitution was applicable to Puerto Rico, though not deciding whether that amendment applied directly or through the Fourteenth Amendment. The Court also set forth other constitutional provisions found in previous Supreme Court cases to be applicable to Puerto Rico. They are the First Amendment free speech clause, Balzac, supra, at 314, the Due Process clause of either the Fifth or Fourteenth Amendment, Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663, 668-69 n.5 (1974) and the equal protection guarantee of either the Fifth or Fourteenth Amendment, Examining Board v. Flores de Otero, 426 U.S. 572, 599-601 (1976). 2/ The Torres case may well be of significance in predicting what the Court will do in future cases involving the application of United States constitutional provisions to Puerto Rico. It is the first time a Federal court directly found the Fourth Amendment applicable to Puerto Rico. Moreover, it may also reflect a trend of the Supreme Court to extend constitutional protections to Puerto Rico, this despite the extensive protections and rights afforded by the Puerto Rican Constitution.

Prior to Torres several Federal court decisions suggested that the Equal Protection clause was applicable to Puerto Rico. Marquez v. Aviles, 252 F.2d 715, 717 (1st Cir. 1958), cert denied, 356 U.S. 952. In Rodriguez Cintron v. Richardson, Civ. Action No. 1099-72 (D.P.R. 1975) 3/ the Court held that the Puerto Rican plaintiffs were entitled to benefit from the principles of equal protection read into the

---

1/The privileges and immunities guaranteed by the Fourth and Fourteenth Amendments are the same. 83 U.S. at 75.

2/The Court also stated that in Califano v. Torres, 435 U.S. 1,4 n.6 (1978) it assumed without deciding that the constitutional right to travel extends to the Commonwealth. Torres v. Puerto Rico, supra.

3/Unpublished opinion.

Fifth Amendment. This determination by the United States District Court for Puerto Rico recently found apparent support in a ruling by the United States Court of Appeals. Molina-Crespo v. Califano, 583 F.2d 572, 574 (1st Cir. 1978). See Rosario v. Califano, Civ. No. 77-303 (D.P.R. Oct. 1, 1979).

In an instance in which the constitutionality of sections of an abortion statute were challenged, the United States District Court for Puerto Rico suggested that Puerto Rico should be treated as a State under the 14th Amendment (due process and equal protection).

"None of this makes clear just which specific provisions of the United States Constitution apply in Puerto Rico. But it does follow undeniably that at least those 'fundamental' protections of the United States Constitution, which were restraints upon the power of the pre-commonwealth government, remain in effect after formation of the Commonwealth and restrict its powers.

\* \* \* \* \*

"Finding such great similarity in the practical and theoretical application of the tests used as to both states and unincorporated territories, we may assume that the notion of 'fundamental rights,' which has undergone such a metamorphosis in the context of interpretation of the Fourteenth Amendment, must be deemed to have had a similar expansion as to Puerto Rico. In addition, we think that we may safely assume that when a personal right has been found applicable to the states via the Fourteenth Amendment, we may then assume that such right is applicable to Puerto Rico, regardless of the theoretical means used to achieve such a result. After all, citizens of Puerto Rico, in common with citizens of states, are citizens of the United States." Montalvo v. Colon, 377 F. Supp. 1332, 1339, 1341 (D.P.R. 1974) (Per Curiam.)

\* \* \* \* \*

Since the formation of the Commonwealth, the right to a jury trial in a criminal case, guaranteed both by Art. III, § 2, cl. 3 and the Sixth Amendment to the United States Constitution, has been held not to be applicable to Puerto Rico. Fournier v. Gonzalez, 269 F.2d 26, 28-29 (1st Cir. 1959). However, several United States Supreme Court cases have held that the right to a jury trial is a fundamental right in a criminal case. Reid v. Covert, 354 U.S. 1, 9 (1957); Duncan v. Louisiana, 391 U.S. 145, 149 (1968). Recently, a Federal district court found unconstitutional provisions in Samoan laws and regulations denying the right to jury trial. King v. Andrus, 452 F. Supp. 11, 17 (D.C. D.C. 1977).

#### FUTURE DETERMINATIONS

It should be clear from the above that the question of Puerto Rico's status and constitutional relationship to the United States since the establishment of the Commonwealth in 1952 has not been judicially determined nor subject to thorough analysis by the courts. What the courts will do in the future is uncertain. It is questionable whether the rationale behind the Insular Cases would be currently applicable. Indeed, in Reid v. Covert, 354 U.S. 1, 13-14 (1957), cited in a concurring opinion in Torres v. Puerto Rico, *supra*, at 11, the Court stated that "neither the [Insular Cases] nor their reasoning should be given any further expansion."

Although the United States Supreme Court might be presented with a case requiring an analysis of Puerto Rico's relationship to the United States, it is uncertain it would render a decision on such a controversial political issue. In Torres v. Puerto Rico, *supra*, it declined to elaborate on the status question, despite Puerto Rico basing its arguments, in part, on its unique political status. In the past, the Court has invoked the doctrine of political question and refused to consider an issue when it could more properly be resolved in the political sphere. Wright, C. A., Law of Federal Courts § 14 (3d Ed. 1976).

The Commonwealth status issue has been left unresolved. Although some might argue that the Commonwealth's relationship to the United States should be defined more precisely and would look to the courts for that definition, others would urge that ambiguity allows for greater flexibility and that a decision on the island's status should come from the Puerto Rican people and the responsible political branches of government.



## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

Mr. Henry Eschwege  
Director  
United States General  
Accounting Office  
Washington, D.C. 20548

Dear Mr. Eschwege:

This is in response to your letter of November 15, 1979, enclosing for our review copies of a proposed report to the Congress entitled, "Experiences of Past Territories Can Assist Puerto Rico Status Deliberations." Representatives of the Office of Territorial Affairs of this Department met with Mr. Gene L. Dodaro and Mr. Anthony Castaldo on December 17 to discuss the draft. Some detailed suggestions, essentially minor in nature, were given to Messrs. Dodaro and Castaldo. I am enclosing, however, a copy of a memorandum from the Assistant Solicitor for Territories that may also be useful as the report is put into final form.

The draft report is an excellent and extremely well done document. It is evident that its authors are dedicated, thorough, and careful scholars. In addition, it is well written. We would like to extend our commendations to them and to congratulate them on a job well done. The report will be very helpful to us in carrying out our responsibilities with respect to the American territories and we would be grateful if you could supply at least 50 copies when it is released. The copies should be sent to Mrs. Ruth G. Van Cleve, Director of the Office of Territorial Affairs.

It was a pleasure to review the report.

Sincerely,

Larry E. Meierotto  
Assistant Secretary -  
Policy, Budget and Administration



*The Secretary of State*

*San Juan, Puerto Rico*

January 16, 1980

Mr. Art Goldbeck  
General Accounting Office  
Washington, D.C.

Dear Mr. Goldbeck:

Thank you for sending us a copy of your draft report entitled "Experience of Past Territories Can Assist Puerto Rico Status Deliberations". We have reviewed the document as requested.

We do not have any major disagreement with the material presented in the report. In fact, the report manifests a great deal of effort and competence upon the part of those individuals from GAO who prepared this report.

Thank you for your consideration and confidence in asking for our comments on this report.

Sincerely,

Pedro Vázquez  
Secretary of State

(018930)

Single copies of GAO reports are available free of charge. Requests (except by Members of Congress) for additional quantities should be accompanied by payment of \$1.00 per copy.

Requests for single copies (without charge) should be sent to:

U.S. General Accounting Office  
Distribution Section, Room 1518  
441 G Street, NW.  
Washington, DC 20548

Requests for multiple copies should be sent with checks or money orders to:

U.S. General Accounting Office  
Distribution Section  
P.O. Box 1020  
Washington, DC 20013

Checks or money orders should be made payable to the U.S. General Accounting Office. NOTE: Stamps or Superintendent of Documents coupons will not be accepted.

**PLEASE DO NOT SEND CASH**

To expedite filling your order, use the report number and date in the lower right corner of the front cover.

GAO reports are now available on microfiche. If such copies will meet your needs, be sure to specify that you want microfiche copies.

**AN EQUAL OPPORTUNITY EMPLOYER**

**UNITED STATES  
GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548**

**OFFICIAL BUSINESS  
PENALTY FOR PRIVATE USE, \$300**

**POSTAGE AND FEES PAID  
U. S. GENERAL ACCOUNTING OFFICE**



**SPECIAL FOURTH CLASS RATE  
BOOK**